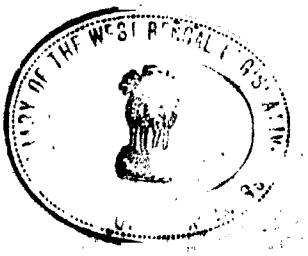

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Bengal Legislative Council

Forty-second Session, 1933

29th and 31st August, 1st and 4th to 8th September, 1933.

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GOVERNOR OF BENGAL.

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A

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Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
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D

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H

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K

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L

Lal Muhammad, Haji. [Rajshahi South (Muhammadan).]
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Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

M

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Q

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R

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S

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W

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Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-second Session.)

Volume XLII—No. 3.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 29th August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 104 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Talukdars and jotedars in Chittagong.

*98. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state what are the total arrears of revenue and cesses of Noabad *taluks* of Cox's Bazar *khas mahal* only, which are under the management of the Court of Wards?

(*b*) Is the Hon'ble Member aware that the *talukdars* and *jotedars* in Chittagong are not capable of maintaining their *taluks* and *jotes* on payment of the enhanced revenues and cesses of the revisional survey?

(*c*) Are the Government considering the desirability of protecting *talukdars* and *jotedars* in Chittagong by remitting immediately some portion of the revenue and cesses?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Total arrears of rent and cess are: Rent—Rs. 11,701. Cess—Rs. 1,554.

(*b*) No. Though the number of defaults on the part of Noabad *talukdars* is large, the percentage of defaults is not high.

(*c*) Government have reduced the rate of public works cess and the district board has reduced the rate of road cess for the year 1933-34. The question of remission of revenue is being examined generally with reference to suitable individual cases.

Babu HEM CHANDRA ROY CHOUDHURI: What is the annual demand of the Noabad *taluks*?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should like to have notice. So far as I remember, I answered it on a very recent occasion.

Maulvi SYED MAJID BAKSH: With reference to (*b*), what does the Hon'ble Member mean by "no"?

The Hon'ble Sir PROVASH CHUNDER MITTER: "No" means that they are quite capable of maintaining their *taluks* and *jotes*.

Maulvi SYED MAJID BAKSH: Then, why is the number of assessment sales and defaulting sales so large?

The Hon'ble Sir PROVASH CHUNDER MITTER: Compared with the total number of *taluks*, the actual sales following on defaults are not large.

Babu HEM CHANDRA ROY CHOUDHURI: What is the total amount of reduction of public works cess due to the general reduction of cess?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already given that. It is 12½ *per cent.*

Haji Badi Ahmed Chowdhury put a supplementary question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: Not 2,000 but 4,000 applications have been received, following a printed circular issued by the Haji Sahib himself. These are mostly unstamped; only 52 had stamps on them. These were examined on their merits. Haji Badi Ahmed Chowdhury's anxiety for the next election has made it most difficult for the District Officer to distinguish between what are *bonâ fide* applications and what are inspired applications.

Haji Badi Ahmed Chowdhury put another supplementary question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: They have been examined on their own merits. But as I have already said, there being the inspiration, it is difficult for the District Officer to find out which of the applications are genuine and which are not.

Haji Badi Ahmed Chowdhury asked whether an answer could not be given in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, it would be more convenient for me, either to answer him in Bengali or in English instead of translating my answers.

Mr. PRESIDENT: Your translations may be quite free and liberal. I do not mind.

Haji Badi Ahmed Chowdhury asked another supplementary question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: What was necessary has been done in individual cases. In any case, I should like to have notice.

Malaria in the Tippera district.

*99. **Babu KHETTER MOHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing for the years 1930, 1932, and for the months of January to June in 1933—

(*i*) the number of deaths from malaria in the district of Tippera; and

(*ii*) the quantities of quinine supplied to the district board for distribution in the malaria-stricken areas of the district?

(*b*) Is the Hon'ble Minister aware that the quantity of quinine supplied is insufficient to meet the needs of the district?

(*c*) Have the Government received any petition from the district board of Tippera for a further supply of quinine?

(*d*) If so, have the Government considered the same and taken any steps?

(*e*) If no steps have yet been taken, do the Government contemplate taking early steps in the matter?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) A statement is laid on the table.

(*ii*) The annual allotments to the Tippera district for quinine and cinchona were as follows:—

Years.	Quinine. lbs.	Cinchona. lbs.
1930-31	80	..
1931-32	100	46½
1932-33	..	150
1933-34 up to 16th August, 1933 ..	100	450

(*b*) Yes: but it is not intended to be the only supply.

(*c*) No: an application was received by the Director of Public Health.

(*d*) and (*e*) A special grant of 100 lbs. of quinine has been made in addition to the ordinary allotment for the district.

Statement referred to in the reply to starred question No. 99 (a) (i), showing the number of deaths from malaria in the district of Tippera for the years 1930, 1931, 1932 and for the months of January to April, 1933.

1930—3,556.	1933—
	January—942.
1931—3,481.	February—716.
	March—736.
1932—8,747.	April—721.

Figures for May and June have not been received yet.

Babu KHETTER MOHAN RAY: Was not the district of Tippera one of the healthiest districts of Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was supposed to be.

Babu KHETTER MOHAN RAY: From the statement supplied, do not the Government consider that the death rate from malaria has been increasing abnormally from 1923?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a matter of inference.

Babu KHETTER MOHAN RAY: Did the Government receive any representation from the Public Health Committee which was recently started in Comilla to give relief to the malaria-stricken people?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Babu KHETTER MOHAN RAY: Did the Government receive any representation from the District Board of Comilla to supply medical aid and to send some expert to investigate the cases for the rise in death rate?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Babu SATISH CHANDRA RAY CHOWDHURY: Has any inquiry been made as to why the supposed healthy district has recently become notorious in point of health?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Rai Bahadur KESHAB CHANDRA BANERJI: Has any malaria survey been made in order to find out the area which has been affected of late?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This question is practically the same as Babu Satish Ray Chowdhury's and I should like to have notice.

Maulvi SYED MAJID BAKSH: What is the abnormal increase in the death rate?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: How can I say that?

Maulvi SYED MAJID BAKSH: Was the increase in death rate due to the non-supply of quinine?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No. It is not so.

Babu HEM CHANDRA ROY CHOUDHURI: Has there been an abnormal increase in the number of malaria patients throughout the province?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Probably so this year.

Eden Canal water rate.

*100. **Babu PROFULLA KUMAR GUHA:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to lay on the table a statement showing for the districts of Burdwan and Hooghly—

(*i*) what was the amount at which the water rate from the Eden Canal for irrigation purposes was fixed in the years 1931 and 1932;

(*ii*) what is the water rate fixed for the current year;

(*iii*) what was the total amount realised by the Government during the years 1931 and 1932 for supplying water from the Eden Canal; and

(*iv*) what is the total amount for which the people have entered into contracts with the Government this year?

(*b*) Is the Hon'ble Member aware that the water rate in respect of the Eden Canal having been lately raised by the Government during these days of grave economic distress the people in many places within these two districts have not been able to enter into contract with the Government for supply of canal water?

(*c*) Will the Hon'ble Member be pleased to state whether the income which the Government used to derive from this particular source from the districts of Hooghly and Burdwan has not been decreased as a result of the increase in the water rate?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Ghuznavi, of Dilduar): (*a*) (*i*) Eden Canal water rate for long leases per season was 12 annas per bigha or Rs. 2-4 per acre in the years 1931-32 and 1932-33. But owing to economic depression a remission of 4 annas per acre was granted for the year 1932-33 only.

(*ii*) Rs. 3-8 per acre per year for new long leases.

(*iii*) 1931-32—Rs. 39,704. 1932-33—about Rs. 36,557.

(*iv*) None so far.

(*b*) No.

(*c*) The increased rate is to take effect from the current year 1933-34. So it is too early to state whether the income from the Eden Canal has decreased as a result of the increase in the water rate.

Maulvi TAMIZUDDIN KHAN: What are the reasons that have induced Government to increase the water rate for the current year?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Because the water from the Damodar Canal is coming in.

Maulvi TAMIZUDDIN KHAN: Do the Government think that the economic condition of the people has improved?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Government took into their consideration the question of the economic condition of the people and that is why they reduced the rate to as low a figure as Rs. 2. But the increase is for the current year when the water from the Damodar Canal is coming in.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that, when the canal rate was increased in Midnapore, the revenue decreased immediately?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I cannot answer it offhand without looking into papers.

Rate of interest for jotes in Chittagong.

***101. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state at what rate interest is charged in respect of arrears for *jotes* in Chittagong and at what rate the penalty is now being charged in Chittagong on the arrears of the Noabad *taluks*?

(*b*) Is the Hon'ble Member aware that the interest charged on *jotes* is comparatively higher than the penalty on the arrears of the Noabad *taluks*?

(*c*) If the answer to (*b*) is in the affirmative, what is the reason for the differential treatment in case of *jotes* in Chittagong?

(*d*) Are the Government considering the desirability of reducing the interest on arrears of *jotes* and of accepting the arrears by instalments to protect *jotedars* in these days of economic depression?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) The rate of interest on arrears of rent in the case of *jotes* is prescribed by section 67 of the Bengal Tenancy Act and is 12½ per cent. But at the present time Collectors have been given discretion to excuse interest on arrears of rent of *jotes*.

Instructions for the levy of a fee when exemption from sale is granted under section 18 of Act XI of 1859 are given in Note 10 to that section in the Sale Law Manual. Ordinarily the fee should not exceed 25 *per cent.* of the arrears.

A fee of 2 *per cent.* is at present being realised for exemption in the case of Noabad *taluks.*

(*b*) No.

(*c*) Does not arise.

(*d*) It is not possible to change the rate of interest leviable on arrears of rent without legislation, but as already stated the Collector has full discretion to reduce or remit interest and he has also discretion to accept payment by instalments.

Haji Badi Ahmed Chowdhury asked two questions in Bengali to which the Hon'ble Sir Provash Chunder Mitter gave answers in Bengali.

Khan Bahadur Maulvi AZIZUL HAQUE: Have the *khas tashildars* been circularised as to the power of the Collectors for remitting interest? If not, will the Hon'ble Member consider the suggestion?

The Hon'ble Sir PROVASH CHUNDER MITTER: I understand there are rules in the Manual to that effect. But if the hon'ble member wants more specific information, I would ask for notice. So far as I am aware, it is well known that the Collectors have the power of using their discretion with regard to certain matters connected with land revenue administration.

Khan Bahadur Maulvi AZIZUL HAQUE: Has any new circular been issued in view of the economic distress?

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot say anything offhand.

Maulvi SYED MAJID BAKSH: Why should persons, whose revenues are in arrears, suffer owing to Haji Sahib's propaganda?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add.

Union Boards.

*102. **Babu SATYA KINKAR SAHANA:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state what steps, if any, the Government have been taking or contemplate taking—

(*i*) to augment the funds of the union boards by securing larger grant from the district board or direct grant from the Government; and

(*ii*) to encourage the presidents, vice-presidents and members of the union boards, by the recognition of their honorary work by the Government in any way other than the mere giving of some small rewards and certificates?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*i*) None. Discretion is given to the district boards by the Village Self-Government Act to fix the amounts of grants to union boards and Government do not propose to ask for powers to interfere in this matter. In their present financial position Government are unable to consider direct grants to individual union boards.

(*ii*) Government do not propose to depart from their existing practice of showing their appreciation of good work in the manner indicated in the questions.

Rai Bahadur KESHAB CHANDRA BANERJI: Did the Government contemplate discontinuing the existing practice of making direct grants to union boards for water-supply, or do they propose to make additional grants in addition to those already made?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Rai Bahadur KESHAB CHANDRA BANERJI: With reference to (*2*), is it not a fact that titles are conferred upon the presidents, vice-presidents and members of the union board——

Mr. PRESIDENT: I do not allow that question.

***Seniority among members of the Bengal Educational Service.**

***103. Mr. MUKUNDA BEHARY MULLICK:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state the principle on which the seniority among members of the Bengal Educational Service is determined in the cadre of such officers?

(*b*) Does the same principle also apply to the officers appointed to the Subordinate Educational Service including ministerial and miscellaneous services?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the current list of officers in the Subordinate Educational Services, including the ministerial and miscellaneous services, has been drawn up in accordance with the said principle?

(*d*) If the principle is not observed in the preparation of the two lists, will the Hon'ble Minister be pleased to state the reasons for the differentiation?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) According to the dates of their admission to that service.

(*b*) The same principle is being observed since 1st July, 1931. Prior to that date the position of officers in the Subordinate Educational Service used to be determined with reference to the actual amount of pay of the officers concerned and the date on which that pay was attained.

(*c*) In the current list of officers in the Subordinate Educational Service the position of officers who were appointed before 1st July, 1931, has been assigned according to the principle which was followed before that date and in the case of those appointed on or after that date their position has been determined according to the dates of their admission to the service.

(*d*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Has the principle been followed in some cases in recent years?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I do not think so.

Maulvi SYED MAJID BAKSH: With reference to (*c*), what is the principle followed before the 1st of July, 1931?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I would refer the hon'ble member to answer (*b*).

Khas mahal in the Tangail subdivision.

*104. **Maulvi ABDUL HAKIM:** Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) the total amount of annual rents for the *khas mahal* (Government estates) managed by the *khas tashildar* of Tangail subdivision (district Mymensingh);

(*ii*) the total amount of rents realised from these *khas mahals* in the year 1931;

(*iii*) the perceptage of cost incurred in that year for the realisation of rents in these *khas mahals*;

(*iv*) the procedure adopted by the *khas tashildar* for the realisation of rents in these *khas mahals* (*i.e.*, whether the rents were realised in instalments or in lumps); and

(*v*) the number of assistants (if any) employed to assist the said *khas tashildar* in the realisation of rents?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*i*) Rs. 10,970.

(*ii*) Rs. 1,684 in the financial year 1931-32.

(*iii*) 64·5.

(*iv*) Rents were realized in instalments.

(*v*) None.

Babu HEM CHANDRA ROY CHOUDHURI: With reference to (*iii*), does this figure refer to the percentage of the collection or the actual payment?

The Hon'ble Sir PROVASH CHUNDER MITTER: It would appear from the answer itself that it was percentage.

Education of the children of labourers.

*105. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps the Department has taken for educating the children of labourers?

(*b*) Is the Hon'ble Minister aware that such children remain engaged during the day in helping their parents?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Six primary schools have been established exclusively for mill-hands and factory

children and there are 9 colliery schools and 171 tea garden schools. The children of labourers can also attend the ordinary primary schools in their locality.

(*b*) No; and under the Factories Act children below the age of 12 cannot be employed in a factory.

Rai Sahib AKSHOY KUMAR SEN: How many mills are there in Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I cannot say.

Rai Sahib AKSHOY KUMAR SEN: How many tea gardens are there in Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have not got that information at my disposal.

Mr. K. C. RAY CHOWDHURY: Is it not a fact that in Bombay mill-owners have been persuaded to start schools during the recess hours?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have no information.

Mauzas in the Arambagh subdivision under the management of Government.

*106. **Babu PROFULLA KUMAR GUHA:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state in a tabular form—

(*i*) the names of the *mauzas* in the Arambagh subdivision of the district of Hooghly held either *khas* by the Government or under the Government, in the management of the Court of Wards; and

(*ii*) the rent realised, both arrear and current, to be shown separately, from those *mauzas* during the years 1930, 1931, 1932 and during the first half of the current year?

(*b*) Is the Hon'ble Member aware that the meagre realisation from these *mauzas* is due partly to economic distress and partly to the civil disobedience movement, carried on by the Indian National Congress in the Arambagh subdivision?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) A statement of *mauzas* under the *khas* management of Government is laid on the table.

There is only one *mauza* under the management of the Court of Wards, *viz.*, Jangalpara.

(*ii*) Rents are realised, estate by estate, and the accounts are kept according to the financial year. A statement showing the rents collected from the estates comprising the *mauzas* is laid on the table.

(*b*) Government are informed that the fall in collection is almost wholly due to economic conditions.

Statement of mauzas referred to in the reply to starred question No. 106 (a) (i).

ARAMBAGH SUBDIVISION.

Tauzi No.	Name of Mauza.
4150	... Gholepura.
4220	... Chousawra *alias* Paisawara.
4232	... Satberia.
4233	... Do.
4235	... Mayapur *alias* Serajabad.
4246	... Hamirbati.
4252	... Serajabad.
4326	... Mayapur.
4370	... Kurmana.
4539	... Do.
4555	... Do.
4589	... Gauranga *alias* Mandaram.
4617	... Kurmona.
4637	... Painchara, Chota Dangal.
4650	... Kurmona in Kamche.
4675	... Beurgram.
4732	... Pantahari.
4744	... Kurmona *alias* Solepur.
4818	... Mominpur.
4840	... Pantahari.
4983	... Dhanghori, Ghoradha, Jagatpur.

Tauzi No.	Name of Mauza.
4988	... Naisarai.
4989	... Penchra.
5009	... Chandpur *alias* Chandra.
5014	... Bali.
5018	... Brojamohanpur.
5021	... Bastubati, Neranjanbati.
5024	... Hirapur, Chakapur.
5031	... Khatagram, Bajna, Momenpur, Balilakunda.
5034	... Bhabadighi.
5036	... Mothura.
5037	... Tarahati.
5043	... Gopalpur *alias* Dhubpur, Bishnupur.
5044	... Damadarpur, Chotadangal *alias* Shayamballavpur, Penchura Uttar.
5059	... Mayapur, Chaksarai, Panpit.
5060	... Chotadangal, Penchura, Damadarpur.
5061	... Ratanpur.
5062	... Chandshet.
5063	... Khunechak.
4322	... Bahukhedal, Ranghunandan Chak.
4249	... Gopaldaha, Ragpur.
3448	... Bahukhedal, Tantisal, Majpur, Raghunandan Chak.
4927	... Pursurah.

Statement of rent collected, referred to in the reply to starred question No. 106(a) (ii).

	Government estates.				Mauza Jangalpara.	
	Arrear.		Current.		Arrear.	Current.
	Rs. a. p.		Rs. a. p.		Rs.	Rs.
1930-31	4,654 7 8		4,435 4 2		7,694	3,396
1931-32	5,829 5 7		2,427 4 4		6,915	3,166
1932-33	8,010 9 5		1,952 7 6		2,095	2,326
1st April, 1933, to 31st July, 1933.	2,495 7 5		189 8 3		Nil.	Nil.

Medical services.

*107. **Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing the names of the doctors appointed in the junior and senior medical services during the last five years?

(*b*) How many of them are Muhammadans and how many of them have been recruited from the scheduled castes?

(*c*) Is there any special circular for the admission of Muhammadan students in Medical schools or colleges?

(*d*) Are there any similar circulars for their recruitment in medical services?

(*e*) What steps do the Government intend taking for the appointment of doctors belonging to the scheduled castes in the junior or senior medical service or for the admission of the scheduled caste students in medical schools or colleges?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) A statement is laid on the table.

(*b*) Of the doctors appointed to the junior service 13 were Muhammadans and 1 was a Buddhist.

Of those appointed to the senior service 14 were Muhammadans, 2 were Buddhists, and 1 was a Namasudra.

As the list of scheduled castes has not been finally published, Government are not in a position to say how many of these doctors belonged to scheduled castes.

(*c*) No. But there are rules.

(*d*) There is a Government order on this point.

(*e*) The question whether the concessions hitherto given to members of the depressed classes should be restricted to "scheduled castes" is now under consideration.

1.—Statement referred to in the reply to starred question No. 107 (a), showing the names of persons recruited to the Junior Medical Service during the last five years.

1928.

No recruitment was made during 1928.

1929.

1. Dr. Mimanesh Bhusan Chatterji.
2. Dr. Mohini Mohan Goswami.
3. Dr. Abdul Adud Choudhury.

1930.

4. Dr. A. M. Md. Elahi Baksh.
5. Dr. Ramanuj Bhattacharji.
6. Mr. Md. Amanullah.
7. Dr. Indu Bhusan Choudhury.
8. Dr. Atul Chandra Chakravertty.
9. Dr. Shamsuddin Ahmed.
10. Dr. Narendra Nath Bose.
11. Dr. Md. Shahebulla Khan.
12. Dr. Adhir Chandra Gangully.
13. Dr. G. M. M. F. Bakht.
14. Dr. Nani Gopal Moitra.
15. Dr. Ajit Kumar Chakraverty.
16. Dr. Moni Mohan Roy Choudhury.
17. Dr. Md. Idris Shah.
18. Dr. Hem Chandra Mukherji.
19. Dr. Nalini Kanta Das Gupta.
20. Dr. Kshitish Chandra Das Gupta.
21. Dr. Abul Khair Md. Siddique.
22. Dr. Jatindra Nath Mondal.
23. Dr. Abinash Chandra Nag.

1931.

24. Dr. Md. Belayet Hossain.
25. Dr. Probodh Chandra Das.
26. Dr. Rabidas Sinha (Buddhist).
27. Dr. Kartick Chandra Haldar.
28. Dr. Md. Jamiar Rahman.

1932.

29. Dr. Phanindra Mohan Ghosh.
30. Dr. Jaladhar Sen Gupta.

Temporary.

31. Dr. Sashadhar Bhattacharji.
32. Dr. Prafulla Nath Roy.
33. Dr. Makhan Lal Ghosh.
34. Dr. Phani Bhusan Chatterji.
35. Dr. Sachipati Ghosh.
36. Dr. Nezamuddin Talukdar.
37. Dr. Emaduddin Ahmed.
38. Dr. Md. Arfan Ali.
39. Dr. Sasanka Kumar Mukherji.

II—Statement showing the names of persons recruited to the Senior Medical Service during the last five years.

1928.

1. Dr. Pulin Bihari Bhattacharji.
2. Dr. Hemanta Kumar Indra.
3. Dr. Rabindra Nath Choudhury.
4. Dr. Mohbubul Ameen.
5. Dr. Sachindra Nath Choudhury.
6. Dr. Md. Hossain.

1929.

7. Dr. Nripendra Chandra Chatterji.
8. Dr. Satish Chandra Mukherji.
9. Dr. Nawab Ali.
10. Dr. Promada Sankar Bhattacharji.
11. Dr. Subodh Chandra Gupta.
12. Dr. Md. Bazlur Rahman.
13. Dr. Indra Bhusan Mazumdar.

1930.

14. Dr. Tara Prosad Sinha (promoted).
15. Dr. Jamini Bhusan Banerji.
16. Dr. Nirmal Chandra Dewan (scheduled caste Buddhist).
17. Dr. Abdur Rahman.
18. Dr. Md. Maizuddin Khan (promoted).

19. Dr. Sudhir Chandra Bose.
20. Dr. Arun Kumar Nandy.
21. Dr. Md. Rafatullah.
22. Dr. Manindra Priya Talukdar (scheduled caste Buddhist).
23. Dr. Ali Ahmed.

1931.

24. Dr. Anath Bandhu Banerji.
25. Dr. Probath Kumar Biswas.
26. Dr. Radha Raman Roy.
27. Dr. Narendra Kishore Roy (promoted).

1932.

28. Dr. Bande Ali Ahmed.
29. Dr. Sukumar Bhattacharji.
30. Dr. Anil Chandra Bhowmic.
31. Dr. Makhan Lal Chakravertty.
32. Dr. Md. Khabir.
33. Dr. Abdul Halim.
34. Dr. A. K. M. Mahiuddin Ahmed (deceased).
35. Dr. Nasimuddin Sarkar.
36. Dr. Upendra Chandra Sarkar (scheduled caste Namasudra).
37. Dr. Bhupendra Nath Mukerji.
38. Dr. Tarak Das Roy Choudhury.
39. Dr. Sudhir Chandra Mazumdar.
40. Dr. Dhirendra Nath Mazumdar.
41. Dr. Sachipati Gossawami.
42. Dr. Habibuddin Ahmed.
43. Dr. Jitendra Mohan Chakravertty.

Babu SATISH CHANDRA RAY CHOWDHURY: Were the appointments made from the Namasudra class only or from other classes too?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Buddhists and Namasudras.

Rai Sahib SARAT CHANDRA BAL: Are there any special provisions for the appointment of Muhammadans in the Junior Medical Service?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is one, I believe. I think it is 33⅓ *per cent.*

Rai Sahib SARAT CHANDRA BAL: Is it not a fact that within the last five years not a single candidate belonging to the depressed classes has been appointed in the Junior Medical Service?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The answer is already there.

Mr. NARENDRA KUMAR BASU: What does the Hon'ble Minister mean by "scheduled caste Buddhists" and "scheduled caste Namasudras"?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a misprint, I am afraid.

Mr. P. N. GUHA: With reference to (*c*), is it not a fact that, for the seats reserved for Muhammadans and depressed classes in the Medical College, the requisite number of candidates was not forthcoming?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Perhaps it is correct.

Mr. P. N. GUHA: Is it not a fact that this year there were only 9 Muhammadans and only one depressed class candidate for admission?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Perhaps, it is so.

Rai Sahib SARAT CHANDRA BAL: Is there any proposal before Government to make special provision for appointment from the scheduled castes in the Junior Medical Service?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The matter is under consideration as I have said.

Babu AMULYADHAN RAY: How long will it take for the matter to be considered?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I cannot say. It depends on my hon'ble colleague, Sir William Prentice.

Live-stock officers.

*108. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that useful work is being done by the live-stock expert to the Government of Bengal with his two live-stock officers in the Rajshahi and Burdwan Divisions towards the improvement of cattle by distributing many good pedigree bulls, introducing fodder-cultivation and silage-making into the villages, formerly unknown to the people of Bengal?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state why the Dacca, Presidency and Chittagong Divisions have been treated differently in this matter inasmuch as they have no live-stock officers to introduce fodder-cultivation, silage-making and also to work for the improvement of cattle, goat and fowl?

MINISTER in charge of AGRICULTURE AND INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Farooqui, Khan Bahadur): (*a*) Yes.

(*b*) Want of funds at present prevents more men being appointed for cattle improvement work. The two live-stock officers are liable to be transferred from their present headquarters to take up cattle improvement work in other tracts, as soon as their work in these divisions is so advanced as to enable them to turn their attention elsewhere. The live-stock expert himself also tours throughout Bengal, and is doing everything possible for the improvement of cattle with funds available.

Babu KISHORI MOHAN CHAUDHURI: How long will it take to complete the work of one district?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: It depends on area, conditions, circumstances and the co-operation of the people.

Rai Bahadur KESHAB CHANDRA BANERJI: Is it a fact that the services of the live-stock expert are not appreciated by the public?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: To the contrary, they are being very much appreciated.

Babu HEM CHANDRA ROY CHOUDHURI: What is the date appointment of the two live-stock officers and one live-stock expert?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I want)tice.

Babu HEM CHANDRA ROY CHOUDHURI: What is the period r which these two officers are working in the Burdwan and Rajshahi ivisions?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I am faid I cannot give the exact dates offhand.

Rai Bahadur KESHAB CHANDRA BANERJI: Is it a fact that ills purchased by the live-stock expert for the Dacca Farm have been oved to be very unsatisfactory?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Not that know of.

Dr. AMULYA RATAN GHOSE: What are the qualifications of e expert?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: He is a cognised authority.

Government Printing, Bengal.

***109. Rai Bahadur GOKUL CHAND BURAL:** (*a*) Will the on'ble Member in charge of the Finance Department be pleased to ate whether it is a fact—

(*i*) that the Jail Press was placed under the control and supervision of the Bengal Government Press in 1882 and that the work of the combined presses together with the printing work relating to the province of Bihar and Orissa used to be managed by one Superintendent assisted by only one Deputy Superintendent;

(*ii*) that the works of the Jail Press and of the Bihar and Orissa Province are being done independently of the Bengal Government Press since 1908 and 1912, respectively; and

(*iii*) that after 1911 the number of Deputy Superintendents in the Bengal Government Press was increased from 1 to 3?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Member be pleased to state the reasons—

(*i*) for increasing the number of Deputy Superintendents in the Bengal Government Press; and

(*ii*) for still maintaining the incumbents in the face of all-round retrenchment?

(*c*) Will the Hon'ble Member be pleased to state whether any retrenchment is contemplated in the near future in this connection? If not, why not?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*)(*i*) The Jail Press has always been under the separate control of the Jail authorities. The direction of technical operations only—a duty of a nominal nature—was transferred to the Superintendent, Government Printing, in 1877. In those days, subject to the above reservation, one Superintendent and one Deputy Superintendent were in charge of the printing work of Bengal including the area subsequently included in the province of Bihar and Orissa.

(*ii*) In 1907 the Superintendent, Government Printing, was completely dissociated from the Jail Press; but during the next few years all work other than the printing of forms was transferred from the Jail Press to the Bengal Government Press. The Government of Bihar and Orissa undertook their own printing after the creation of that province.

(*iii*) Yes.

(*b*) (*i*) The number of Deputy Superintendents was increased in order that the staff might cope efficiently with an increasing volume of work, and to provide a leave reserve for the superior posts.

(*b*) (*ii*) and (*c*) The position was reviewed in connection with the recommendations of the Retrenchment Committee, 1932. It has been decided to abolish the post of third Deputy Superintendent as soon as an existing post of Deputy Superintendent is permanently vacated; and to replace it by a post of Assistant Deputy Superintendent by way of leave reserve.

Co-operative audit fees.

***110. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Agriculture (Co-operative) Department be pleased to state what action, if any, has been taken on the report of the Provincial Banking Enquiry Committee, drawing attention to the unspent balance on the audit fees realised from Co-operative

Societies, amounting to Rs. 58,191 in 1926-27, Rs. 96,249 in 1927-28, and Rs. 1,00,528 in 1928-29, while the inadequate auditing staff continued to be a serious defect in the administrative machinery of the Co-operative Department?

(*b*) Is it a fact that the Indian Central Banking Enquiry Committee also accepted the contention that the Government of Bengal has paid inadequate attention to this subject, while money had been raised from the societies concerned but left unspent for diversion to other purposes?

(*c*) Is it a fact that some of the Central Banks in Bengal made serious objections to paying the audit fees in the year 1931 on the ground that a huge amount realised from societies as audit fees was lying unspent in the Government Treasury?

(*d*) Will the Hon'ble Minister be pleased to lay on the table a statement showing for the present—

(*i*) amounts of shares and deposits in the Bengal Provincial and Central Co-operative Banks in the Province;

(*ii*) the amounts of shares and deposits at the credit of—

(*1*) Hindus,

(*2*) Mussalmans, and

(*3*) Europeans; and

(*iii*) the number of employees—

(*1*) Hindus,

(*2*) Mussalmans, and

(*3*) Europeans,

in the Banks?

MINISTER in charge of AGRICULTURE (CO-OPERATIVE) DEPARTMENT (the Hon'ble Khan Bahadur Nawab K. C. M. Faroqui): (*a*), (*b*), (*c*) and (*d*) The member is referred to the answer given to starred question No. 73 asked by him at the meeting of this Council held on the 22nd March, 1933.

Since that reply was given 18 additional auditors sanctioned in 1932-33 have been recruited.

Rai Bahadur KESHAB CHANDRA BANERJI: Of the 18 additional auditors appointed, how many are Hindus, how many are Muhammadans, and how many belong to the scheduled castes?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: I want notice.

Babu HEM CHANDRA ROY CHOUDHURI: Will the pay of these additional auditors absorb the surplus amount?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: In consequence of the addition, the surplus accruing during the current year will be necessarily reduced.

Calcutta Medical College Hospital.

***111. Babu PROFULLA KUMAR GUHA:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that sectarian difference exists in the general ward of the Calcutta Medical College Hospital?

(*b*) Is it not the intention of Government to extend equal privileges to all patients, whether Christians, Muhammadans or Hindus?

(*c*) Is the Hon'ble Minister aware—

(*i*) that there are two rows of fans in each of the European wards;

(*ii*) that in each of the Indian wards there is only one row of fans; and

(*iii*) that the diet scale of the Europeans is double that of the Indians?

(*d*) If the answer to (*c*) is in the affirmative, are the Government considering the desirability of providing another row of fans in the General Ward and of giving equal facilities to Indian and European patients alike?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) There is no question of privileges: patients as far as possible are given diet and accommodation in accordance with their habits.

(*c*) (*i*) Yes.

(*ii*) Yes, in the old wards: there are two rows in the new wards.

(*iii*) No. There are now ten Indian diets ranging in cost from 5 as. 5¼ pies to 7 as. 5½ pies and eight European diets ranging in cost from 6 as. to 11 as. 9¾ pies.

(*d*) No. The patients in the old wards belong to classes not accustomed to fans and often dislike them. The latter part of this question does not arise.

Babu HEM CHANDRA ROY CHOUDHURI: With reference to (*d*), does the Hon'ble Minister mean that the standards of living of European patients and of Bengali patients are different?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With regard to diet, it may be so.

Babu HEM CHANDRA ROY CHOUDHURI: Why should there be two rows of fans for Europeans and one row for Indians?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In the new buildings there are two rows of fans for Indians.

Khan Bahadur Maulvi AZIZUL HAQUE: Where did the Hon'ble Minister get the information that a certain class of Indians dislike fans?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: From the doctors in charge.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it a fact that there are Europeans who are not accustomed to fans?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is quite possible.

Recruitment of Ahirs of Bihar and United Provinces as constables in Bengal.

*112. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether the Ahirs of Bihar and the United Provinces are still appointed as constables in Bengal?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the number appointed in each year since the year 1922?

(*c*) If the said Ahirs are no longer appointed, will the Hon'ble Member be pleased to state the reason therefor and state since when his has been stopped?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) There is no bar to the recruitment of Ahirs of Bihar and Orissa and United Provinces except from certain specified villages.

(*b*) Figures are not available.

(*c*) Does not arise.

Dr. AMULYA RATAN GHOSE: Is it not a fact that no appointment of Ahirs have been made for some time?

The Hon'ble Sir WILLIAM PRENTICE: I cannot say. We do not keep figures for the various castes.

Cattle improvement.

*113. **Babu KISHORI MOHAN CHAUDHURI:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the Government are considering the desirability of taking necessary steps, so that the district boards of Bengal may allot some money every year, like the Malda district board, for the improvement of cattle and appoint one live-stock assistant to work on lines as suggested by the live-stock department?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This is a matter which should be left to the discretion of district boards.

Government do not intend to ask for powers to compel them to allot funds for this purpose.

Babu KISHORI MOHAN CHAUDHURI: Is it not a fact that the improvement of cattle is very important for agriculture in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a matter of opinion.

Babu SATISH CHANDRA RAY CHOWDHURY: Has the attention of the district board been drawn to the suggestion of the live-stock expert?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Village Self-Government Act was amended recently, and power was given to the union boards to that effect. It is a discretionary power.

District Health Officers.

*114. **Rai Sahib SARAT CHANDRA BAL:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing—

(*i*) the district boards who are maintaining District Health Officers; and

(*ii*) the staff at present placed under the Health Officers for the various specific works?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*i*) All district boards maintain Health Officers.

(*ii*) This information cannot be obtained unless special enquiries are made from district boards involving, in the opinion of Government, a disproportionate expenditure of time and energy for which they are not prepared to ask.

Levy of fee on exemption of estates from sale.

*115. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state on what principle fines are being realised from defaulting estates in revenue sales?

(*b*) Is it a fact that the proportion of fine varies in different cases in the same district?

(*c*) Is the Hon'ble Member aware that there exists a feeling of discontent and hardship over the realisation of fine at different rates?

(*d*) Are the Government considering the desirability of revising the rates?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Instructions for the levy of a fee when exemption from sale is granted under section 18 of Act XI of 1859, are given in note 10 to that section in the Sale Law Manual. Ordinarily the fee should not exceed 25 per cent. of the arrears, but for the present an amount ordinarily not exceeding 2 per cent. is charged.

(*b*) The fee is not intended to be uniform. The Collector has discretion to vary the fee according to the circumstances of the case.

(*c*) and (*d*) No.

Central Munsif's Court at Dacca.

*116. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) the names of the districts where Central Munsifs' Courts exist;

(*ii*) the principle on which the system of the Central Munsifs' Courts was established; and

(*iii*) how far the system has proved a success?

(*b*) Is he aware—

(*i*) that the opinion of the litigant public of Dacca is strongly against the location of the Central Munsif's Court in a boarding house; and

(*ii*) that the court room there is too small to accommodate the litigant public?

(*c*) Is the Hon'ble Member also aware that the said Munsif's Court at Dacca being far away from the District Courts has been causing inconvenience to the public as well as to the members of the legal profession?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*)(*i*) Burdwan, Chittagong, Dacca and Tippera.

(*ii*) The central courts were established in order to attain speedier and more efficient disposal of civil suits in their earlier stages.

(*iii*) There has been a reduction in arrears as well as a reduction in the duration of suits.

(*b*) (*i*), (*ii*) and (*c*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Has any representation been received from the litigant public of Dacca asking for the removal of the Court to some convenient site?

The Hon'ble Sir WILLIAM PRENTICE: No. Neither from the public nor from the Bar.

Babu KHETTER MOHAN RAY: Has any representation been received from Tippera for the removal of the Central Court?

The Hon'ble Sir WILLIAM PRENTICE: Not that I am aware of.

Babu KHETTER MOHAN RAY: Does not the Central Court as it is situated cause hardship to the litigant public?

The Hon'ble Sir WILLIAM PRENTICE: Not that I am aware of.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Shooting in the Sunderbans.

40. Babu SUK LAL NAG: (*d*) Will the Hon'ble Member in charge of the Revenue (Forest) Department be pleased to state—

(*i*) whether it is a fact that the practice of issuing licences for shooting in the Sunderbans has been discontinued for the months of October, November and December;

(*ii*) if so, what circumstances led to the discontinuance of this practice; and

(*iii*) what effect, if any, it has produced on Government revenue from licence fees?

(*b*) Is the Hon'ble Member aware—

(*i*) that the forbidden months constitute the most suitable time for shooting; and

(*ii*) that there is a feeling of hardship to the public over the discontinuance of the practice of issuing shooting licences in these months?

(*c*) Are the Government contemplating revising the rules so as to permit the issue of shooting licences in the Sunderbans for the months of October, November and December?

MEMBER in charge of REVENUE (FOREST) DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Chuznavi, of Dilduar): (*a*)(*i*) No.

(*a*) (*ii*), (*iii*) and (*b*) Do not arise.

(*c*) No.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it a fact that persons applying for shooting licences in the Sunderbans are told that, after the visit of a distinguished gentleman, the issue of such licence has been stopped?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI, of Dilduar: No.

Scheduled castes.

41. Mr. R. MAITI: (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state—

(*i*) which are the castes who have so far objected to their being included in the list of "Scheduled castes" published by the Government of Bengal in the *Calcutta Gazette* of the 19th January, 1932;

(*ii*) what are the main grounds on which they base their claims for exclusion from the list; and

(*iii*) whether the Government have considered their objections?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, which are the castes that have been excluded from the aforesaid list and what are the reasons for their exclusion?

(*c*) Is it a fact that a number of representations have been received by the Government from the Rajus and Suklis through their various organisations for their exclusion from the list of "Scheduled castes"?

(*d*) If the answer to (*c*) is in the affirmative, have such representations been considered? If so, with what results?

(*e*) Is the Hon'ble Member aware that the Government of Madras have not classed the Rajus among the "Scheduled castes" in their province?

(*f*) If the answer to (*e*) is in the affirmative, are not the Government considering the desirability of excluding them from the list of "Scheduled castes" prepared for this province?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) and (*ii*) The attention of the member is invited to the answer given to starred question No. 4 asked by Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, in this Council on the 20th February, 1933. A list of the representations received was laid on the library table in response to this question. Objections were received with respect to the proposed status of the following castes on various grounds:—

Bagdi.	Konwar.	Oraon.
Bhuimali.	Lodha.	Pod.
Dhoba.	Lohar.	Pundari.
Hadi.	Malla.	Rajbanshi.
Jalia Kaibarta.	Muchi.	Raju.
Jhalo Malo or Malo.	Nagar.	Shagirdpesha.
Kalwar.	Namasudra.	Sukli.
Kapali.	Nath.	Sunri.
Khandait.	Nuniya.	

(*iii*) Yes.

(*b*) An official announcement will be made in due course.

(*c*) Yes.

(*d*) *Vide* (*b*) above.

(*e*) Yes.

(*f*) *Vide* reply to (*b*) above.

Babu AMULYADHAN RAY: Is it a fact that most of the objections are not genuine and have been put in at the instance of the Hindu Mahasabha?

The Hon'ble Sir WILLIAM PRENTICE: We have taken the representations as received.

Babu AMULYADHAN RAY: Is it not a fact that many depressed class organizations represented this fact to the Reforms Officer?

The Hon'ble Sir WILLIAM PRENTICE: Such allegations were made.

Babu AMULYADHAN RAY: Is it not a fact that leaders and organizations of the Dhobi, Muchi, Namasudras and Surris are not aware of these objections?

The Hon'ble Sir WILLIAM PRENTICE: I want notice.

Rai Sahib SARAT CHANDRA BAL: Are the Government considering the desirability of making an inquiry regarding the genuineness of such representations?

The Hon'ble Sir WILLIAM PRENTICE: I do not think it is necessary.

Haturia-Nakalia Union board, Pabna.

42. Mr. SHANTI SHEKHARESWAR RAY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether it is a fact that in July, 1929, the Sadar Subdivisional Officer, Pabna, made enquiries regarding the affairs of Haturia-Nakalia union board and in his report commented unfavourably as regards the conduct of the President; and

(*ii*) whether it is a fact that the President was removed by a motion of no-confidence?

(*b*) If the answer to (*a*) is in the affirmative, why has the said person recently been nominated by the Government as a member of the district board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Yes.

(*ii*) The honourable member is referred to the reply given on the 24th August, 1933, to unstarred question No. 36 by Babu Suk Lal Nag.

(*b*) Because the District Magistrate after enquiry held that the allegations against the President had been due to personal hostility on the part of various people and that his work as President had been good.

Mr. SHANTI SHEKHARESWAR RAY: When did the District Magistrate hold an inquiry?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think immediately after he received the report of the Subdivisional Officer.

Mr. SHANTI SHEKHARESWAR RAY: Is it not a fact that the recommendation of the District Magistrate in connection with the nomination of this gentleman was at first turned down by the Hon'ble Minister?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No; it was never turned down.

Clerical staff in the Bengal Secretariat.

43. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to lay on the table a statement showing—

(*i*) the present number of head assistants in the various departments of the Bengal Secretariat;

(*ii*) how many of them are Muhammadans and in which departments they are placed;

(*iii*) the present number of the Upper Division and Lower Division clerks in the Bengal Secretariat; and

(*iv*) how many of them are Muhammadans?

(*b*) Will the Hon'ble Member be pleased to state whether the maximum percentage of Muhammadan appointments has been reached in the Secretariat?

(*c*) If the answer to (*b*) is in the negative, are the Government considering the desirability of reserving all future vacancies in both the divisions for Muhammadans till the prescribed percentage is reached?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) A statement is laid on the table.

(*b*) and (*c*) For the orders prescribing the number of vacancies to be reserved for Muhammadans if suitable candidates are available, the member is referred to the Rules for the Regulation of Appointments in the Clerical Service of the Secretariat and certain other offices of the Government of Bengal, a copy of which will be found in the Library of the House. These orders aim at securing for Muhammadans in due course a minimum of 33 1/3 per cent. of appointments. It will be observed from the statement laid on the table that considerable progress has been made. Government do not propose to amend the rules.

Statement referred to in the reply to unstarred question No. 43 (a), showing clerical staff in the Secretariat.

Department.	Head Assistants.		Upper Division assistants including Head Assistants.		Lower Division assistants.		Total posts.	Total Moslems.
	Total posts.	Moslems.	Total posts.	Moslems.	Total posts.	Moslems.		
1. Chief Secretary's Office.	5	2	27	10	43	15	70	25
2. Finance Secretary's Office.	6	..	28*	8	58	21	86	29
3. Revenue Department.	4	..	12	4	28	10	40	14
4. Irrigation Department.	2	1	7	2	15	6	22	8
5. Education Department.	2	1	6	2	15	6	21	8
6. Local Self-Government Department.	3	..	10	2	20	8	30	10
7. Agriculture and Industries Department.	3	1	8	2	17	7	25	9
8. Public Works Department.	4	1	13	5	23	10	40	15
9. Legislative Department.	1	..	2†	..	6	2	8	2

*Including 2, outside the cadre. †Outside the cadre.

Kala-azar in Khulna

44. Maulvi ABUL QUASEM: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that there is an increase in the incidents of kala-azar in the district of Khulna?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of making an increased and adequate grant to the district board of Khulna to combat the disease?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) There has been an increase in the number of cases treated.

(*b*) The claims of Khulna district will be given due consideration in any distribution of cash grants and kala-azar specifics.

Babu HEM CHANDRA ROY CHOUDHURI: What is the date of the receipt of the information regarding the increase in the number of kala-azar patients?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Maulvi ABUL QUASEM: Is there going to be a distribution of kala-azar specifics during the current year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, the grant has already been made.

Maulvi ABUL QUASEM: What is the amount?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Maulvi ABUL QUASEM: Has any arrangement been made for the distribution of kala-azar specific in the Khulna district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I should like to have notice.

Appointment of munsifs.

45. Babu AMULYADHAN RAY: With reference to the answer to clause (*b*) of starred question No. 17 of the 9th August, 1933, will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) why the assurance of appointments was given to the two candidates; and

(*ii*) who gave that assurance?

The Hon'ble Sir WILLIAM PRENTICE: (*i*) Because they had been definitely selected for appointment, according to the approved practice, in anticipation of future requirements.

(*ii*) The High Court.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Municipal (Amendment) Bill, 1933.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to introduce a Bill to amend the Bengal Municipal Act, 1932.

The Secretary then read the short title of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the said Bill be taken into consideration.

Sir, as has been explained in the Statement of Objects and Reasons, it was understood that the proviso to section 2 read with section 24 of the Bill gave Government power to dissolve municipalities, and to have them reconstituted under the new Municipal Act. This was the opinion of the law advisers of Government at one time, but as is well known civil suits were instituted in different places, challenging the authority of Government and claiming that the old Act was still in existence. To remove that anomaly this amendment is considered necessary. Out of 117 municipalities over 50 have already been reconstituted under the new Act. Just to validate the work that has already been done by the commissioners of the newly constituted municipalities it is necessary that these doubts should be removed as early as possible. Under section 57 of the Bengal Municipal Act every commissioner, whether elected or appointed, has to take the oath of affirmation or allegiance to the Crown either within three months of the reconstitution of the board or at the first meeting; not at once, but within three months of the reconstitution of the board. If he does not do so, his seat becomes automatically vacant. But it has so happened that in several municipalities none of the commissioners have taken the oath of allegiance; so these municipalities are practically not in existence; either by misapprehension or by misinterpretation of the provisions of the Act they have failed to take the oath. So it is necessary that the functions discharged by the municipal commissioners in the meantime should be validated, and just to do away with the possibility of similar difficulties in the future, new power is proposed to be taken under this Bill, by

which the Government will be in a position to condone such failures if they are due to any inadvertence. With regard to aliens who may have scrupulous objections to taking the oath of allegiance to the British Crown, they should be exempted, because if they are not exempted they cannot be appointed or elected to any municipal body, however useful they might be in a particular locality.

Another important change which it is proposed to be made is with regard to clause 123 of the Act. It was the intention of the Legislature that no one's name should be included in the voters' list until and unless he paid the municipal rates and taxes for the year preceding that in which the municipal election was to take place, within that year. Now there are anomalies in the different sections. In some of the sections the meaning is quite clear; but in others it is not so, and the electoral roll could not be prepared on the same principle everywhere, and just to remove this anomaly this amending Bill has been introduced. All these amendments are merely formal. Government knew that some amendments were necessary to remove some of the defects, but they were all of a substantive character and all substantive amendments have been avoided in this Bill and only those amendments which are immediately necessary for the working of the municipalities or for validating the functions that have already been discharged by some of the municipalities, as I have already described, have been put in this Bill. There are other verbal anomalies here and there, and they are also proposed to be removed. I hope the House will agree to this proposal.

Mr. P. BANERJI: I beg to move that the Bill be circulated for the purpose of eliciting public opinion thereon before the 15th November, 1933.

The Hon'ble Minister has told us that the amendments are only formal, and it is only to avoid these anomalies that he has introduced this Bill. When the Bill was introduced about this time last year, as is usual with Government, public opinion was not taken and I say that is the only reason why so many law suits as has been admitted by the Minister, have been filed, protesting against the hurried action of the Minister. Sir, everyone is aware how hurriedly this Bill was passed into law, presumably perhaps the Hon'ble Minister thought that the Council was going to be dissolved and that, therefore, such a wonderful piece of legislation must be hurried through. The result is what was to be naturally expected, so that the Hon'ble Minister now comes forward with an amending Bill saying that it embodies only formal amendments. But, Sir, I will just point out that these are not merely formal amendments. When introducing the Bill last year, he made a speech and with your permission may I read out one portion of his speech? He said that the franchise had been greatly widened and that

the payment of any sum in respect of municipal rates will qualify for a vote; the Local Government have power to fix and modify the minimum amount of rates and taxes, the payment of which will also qualify for a vote. Sir, the innocent members of this Council relying on this assurance of the Hon'ble Minister naturally thought that circulation was not necessary and even in the beginning he said that out of 117 municipalities only 387,562 persons were enfranchised while the population in these municipalities was as much as 2,314,851! Sir, he gave these figures in order to lure the members into supporting, but afterwards no sooner was the Bill passed, than towards the end of the session he brought forward a deal of amendments without notice, I mean after very short notice with your permission, and they were passed. Now he says that these are only formal amendments and so saying this time also he is trying to lure the members in the same way. I will just refer to section 3, sub-section (*2*), where he has omitted the original section.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Section 3 does not form a subject matter of this Bill.

Mr. P. BANERJI: Section 3(*2*) is going to be changed, surely, as well as sections 23 and 123 of the Act. In his speech, while introducing the Bill, he gave us a promise that the franchise would be enlarged—that is my point, and afterwards he says that carters who pay fees for registration of carts—they won't be allowed to vote. In clause (*3*) of this Bill he has omitted (*e*) and (*f*) of section 123 of the original Act; in (*e*) we find tax on carriages, horses and other animals as mentioned in Schedule III, and in (*f*) tax on trades, professions and callings specified in Schedule IV, etc.

Thus you will find how the Hon'ble Minister gave us an assurance last year when the Bill was passed that the franchise would be enlarged.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not exactly follow what the hon'ble member is driving at. He wants to circulate the Bill for eliciting public opinion, but what has that got to do with this promise? Then, again, the Bill was not passed by me, but by the House.

Mr. P. BANERJI: I know the Hon'ble Minister would put forward that argument. I will now explain my point: I say that when the Bill was passed, it is well known that the Bill was passed not by the Hon'ble Minister but by the House, and the Hon'ble Minister need not waste his breath on that account. But if he will listen to me with patience I will substantiate my argument, that when this Bill was

before the House last year the Hon'ble Minister assured us that the franchise was going to be enlarged; that is my point. But subsequently we came to know that though the franchise was enlarged to a certain extent, but now in this Bill we see that he is going back on his promise and he is now going to narrow it down.

Now, he has said that there are already 50 municipalities that have been constituted under the new Act and in regard to the rest difficulties have arisen; that is, in a majority of the cases, the people have challenged the power of Government to dissolve those bodies. My point is that if public opinion were taken on the Bill then, this difficulty would not have arisen and the municipalities would not now be fighting with Government on a constitutional point. Government should have waited till the old commissioners were all out, but they did not do so, and went on with this Bill without caring to take public opinion. I know of one municipality Baduria which elected the commissioners as early as 1931 who could not function. It was asked again to hold a fresh election in 1932.

Mr. PRESIDENT: What you have already said may be taken as your general or introductory remarks. You must now come to the point: Why do you want to circulate the Bill and why don't you want it to be taken into consideration? You must advance your arguments on these lines.

Mr. P. BANERJI: I was just explaining, Sir, that if the public had been consulted, these difficulties would not have arisen at all. The Hon'ble Minister wants to change certain provisions of the Act, and I consider that this measure should go before the public, for their opinion must be sought. That is my point, and in doing so, I was just suggesting that as some of the municipalities are still under the old Act and in their case no election has taken place, it did not matter if he waited a little and agreed to circulate the Bill till the 15th November. It is not a long time from now, and if public opinion is taken, there will be no difficulty as has taken place with the present Act. With these words I beg to move my amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to oppose the motion. The main object of the Bill has been explained very clearly by the Hon'ble Minister in the Statement of Objects and Reasons. The working of the new Act for the last few months has revealed certain defects in it and it is in order to remove these defects and anomalies that the present Bill has been introduced. Sir, so far as the Municipality of Dacca is concerned, it has been found by experience that further amendment of the Act has become necessary. I have said more than once before that there is nothing perfect in this world and the Act cannot be regarded as a model of perfection until

some time elapses and the commissioners are given a full opportunity of judging in what respects it should be amended. Sir, the public had been given ample opportunity of expressing their views on the Bengal Municipal Amendment Bill when it was first introduced, and the Select Committee after protracted deliberations submitted a well-considered report and the Bill was passed into law. This Bill is meant only to rectify certain palpable defects which have been brought to notice in the course of the working of the Bengal Municipal Act, 1932, during the last few months, and I do not think any useful purpose will be served by circulating the Bill for the purpose of eliciting public opinion thereon. It is not proposed to alter the Act materially, but to improve upon it in the light of the experience gained during the short period that the Act has been in operation in Bengal.

I, therefore, strongly oppose the amendment.

Dr. AMULYA RATAN GHOSE: Sir, I cannot see why this Bill should be circulated in the present state of things. Perhaps Mr. Banerji is not aware that almost all the municipalities have had their elections during last March and those municipalities have elected their representatives, but the elections of chairmen and vice-chairmen are pending in all these municipalities. That election cannot be held on account of this defect in the Act and that defect is now sought to be cured by this Bill brought forward by the Hon'ble Minister. I know that Mr. Banerji's grievances have got substance in them, but for the past grievances I do not think it prudent on the part of a popular representative to oppose a thing which is now so much necessary for our municipalities. We all remember, Sir, that the Bengal Municipal Bill last year was passed without proper consideration and, therefore, Mr. Banerji contended that all these defects were there.

Mr. PRESIDENT: Why do you go into that? Why do you say that it was not properly considered?

Dr. AMULYA RATAN GHOSE: That is the opinion held by some.

Mr. PRESIDENT: It is not necessary to go into all that.

Dr. AMULYA RATAN GHOSE: Very well, Sir. Now, it is necessary for those municipalities to hold elections of chairmen and vice-chairmen and those elections should be valid elections, and for that reason I do not think that any delay can be tolerated. About six months have elapsed since the elections were held in March, but the municipal boards are now without proper representatives, so to speak, and therefore the earlier the Act is validated and the amendments

proposed in the Bill are passed by the Council, the better for the municipalities. For this reason I oppose the amendment proposed by Mr. Banerji.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am sorry that Mr. P. Banerji should have moved his amendment on the ground that the original Bill was passed without having public opinion behind it. Sir, as I explained then, and I can only repeat now, public opinion was obtained and sufficiently obtained on the Bill as it was then introduced in the House. Moreover, this House had ample opportunity to discuss the original Bill for over a month when this Act was passed. Now, Sir, the present Bill seeks only to give effect to the Bill that was passed by the House and no substantial change is now proposed in that Bill. Only we want to remove certain anomalies, and that requires no public opinion, because public opinion is already there. It is an Act of the Legislature and we want to give effect to it: that is the whole intention of the Bill, and so I oppose this amendment.

Mr. P. Banerji's motion was then put and lost.

The motion that the Bengal Municipal Amendment Bill, 1933, be taken into consideration was put and agreed to.

Clauses 1 and 2.

The motion that clauses 1 and 2 stand part of the Bill was put and agreed to.

Clause 3.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 3(2)(*a*), in line 3, after the word "held," the words "or, within fifteen days from the date of notification announcing the holding of such election" be inserted.

Sir, in the Bill clause it is stated—"has, during the financial year immediately preceding the year in which such election is held, paid, for such financial year, any sum in respect of the municipal rates specified in clause (*a*), (*b*), (*c*) or (*d*) of sub-section (*1*) of section 123 or paid, in respect of municipal fees and taxes (other than cart registration fees) for such financial year, an aggregate amount not less than the sum prescribed by the Local Government in this behalf as a minimum for the municipality."

Here I want by my amendment to give facilities to the municipality to collect taxes and also to the rate-payers to get a chance, if they have not paid their taxes during the financial year as contemplated in the Bill clause, to pay. If any rate-payer has failed to pay within that financial year, he should be given an opportunity of paying up

and availing of the franchise he is entitled to. That is the purpose of my amendment. If the time, as suggested by me, namely, within 15 days from the date of notification announcing the holding of such election, is given, many rate-payers will flock to the municipal office to pay up their dues and they will try to get their names enrolled as voters. The municipality will thus be gainer: it will get a large amount of tax, which had been in arrears, during those 15 days. At the same time the tax-payers, who for some reason or other became defaulters, will be in a position to enrol themselves as voters. It is not the intention of the Legislature to keep out any rate-payer from exercising his right of franchise. Therefore, 15 days' time ought to be given to them, and by so doing the municipality will also be gainer. With this object in view, namely, that the rate-payers will pay up their dues and the municipality will not have the trouble of taking stringent measures to realise the taxes, I have tabled my amendment, and I think I have made my point sufficiently clear, and I hope that the Hon'ble Minister will see his way to accept this amendment.

Mr. H. P. V. TOWNEND: Sir, I am sorry to have to oppose Dr. Ghose's praiseworthy attempt to encourage people not to pay up their taxes in time. The first objection to his amendment is one of principle. The Hon'ble Minister has in anticipation met Dr. Ghose's amendment. He has pointed out that the only object of this Bill is to remove some defects which have to be removed at once if the work of certain municipalities is to be carried on. The whole idea is to make more explicit the intention of the Council when it passed the main Act, and no attempt has been made in the present Bill to introduce any new thing whatsoever. Dr. Ghose seeks to introduce a perfectly new principle which is not in accordance with the wish of this House, as expressed by it when it considered this section previously about a year ago. For this reason alone, therefore, this amendment ought to be opposed.

There is also another reason which may be put forward and that is that the principle is wrong on point of public morals. The object of the amendment is practically to encourage a practice which is altogether wrong, namely, that candidates who want votes should be in a position to buy them. If Dr. Ghose's amendment is accepted, a candidate may run to a voter and say "you will not be able to vote as you have not paid your taxes, but I will pay for you if you will vote for me" and the man will of course vote for the candidate who pays the taxes for him. That is the very thing of which the House wished to prevent the possibility by the provisions put into the section when it passed it, although the drafting unfortunately was not as clear as it might have been. The idea of the section is that the payment

should be made beforehand during the financial year which precedes the year in which an election is held, before the tax-payers know that there is going to be an election.

Now, there is another point against the amendment. If it is passed as it stands, it will be unworkable, because there is no notification published announcing the holding of elections. The Local Government fixes a date for the first——

Dr. AMULYA RATAN GHOSE: Yes, that is published.

Mr. H. P. V. TOWNEND: There is no notification published fixing the date of election; the District Magistrate fixes the date. The date of the first general election under the new Act is fixed by Government, but for elections afterwards the date is to be fixed by the District Magistrate in an order; the order of the District Magistrate is communicate to the municipality and published by them in the town. Therefore, Dr. Ghose's amendment will be meaningless. I think in view of this Dr. Ghose will be well advised to withdraw his amendment. Sir, I oppose not chiefly on account of the defects which have mentioned, but also on account of the great principle involved, namely, that we should not tamper with the principle which the House accepted previously.

The motion was put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 3(*2*) (*a*), in lines 7 and 8, the words and brackets "(other than cart registration fees)" be omitted.

Sir, my object is to extend the franchise to persons who pay cart registration fees. The last Bengal Municipal Act widened the franchise to a very large extent, but unfortunately it left out one class of people. No one knows why. It will be seen that under the new Act one essential condition for being a voter is that he must either be a resident without the municipality or an occupier of a holding within the municipality for one year and he must be carrying on some trade or profession during such occupation. That is essential. Therefore, the argument that may be advanced against the carters that if they become voters, then people residing outside the municipalities may get themselves registered as voters and swamp the municipal elections has no legs to stand upon. There is no such apprehension, because unless a man is either a resident within the municipality or occupier of a holding in the municipality, he can never be a voter. Therefore, there seems to be no reason why these carters should be excluded. Perhaps it may be said that only those persons who pay some ordinary municipal rates, such as latrine or light tax, or some such similar tax, should be

voters. But that argument cannot stand, because obviously the Act has classified other persons who are not ordinary rate-payers as voters, for example—I would refer to the Act—persons who pay taxes on carriages, horses, etc., mentioned in Schedule III, persons who pay taxes under Schedule IV, persons who pay tolls on ferries, and persons who pay fees on vessels moored within the municipality. It is only those who pay cart registration fees who are to be excluded. I think it was a very regrettable omission, and these people should no longer be deprived of the franchise. They are labourers, and everyone knows that the star of the labourer is on the ascendant everywhere in the world. Why then in Bengal should they be deprived of their rights? One argument that may be raised is that the present Bill is of a validating character and, therefore, any amendment which is of a substantial character cannot be entertained. That is the Government's position. I do not see why Government should take up such an attitude. If it is otherwise reasonable, there is no ground why Government should fight shy of this amendment. There may be certain amendments that are of a very complicated nature and the pros and cons cannot be comprehended within a short space of time. Amendments of that nature may not be entertained during the consideration of a validating Bill but simply the inclusion of a certain class of people who pay cart registration fees as voters cannot raise any complication which Government cannot comprehend within a short space of time. Therefore, the plea that Government seem to have taken that no substantial amendments are going to be entertained seems to be very flimsy. I think the House should extend the franchise to the carters. With these words, I commend my motion to the acceptance of the House.

Mr. NARENDRA KUMAR BASU: I rise to oppose this motion on the very simple ground that the inclusion or exclusion of people who pay cart registration fees was discussed in this House when the Bengal Municipal Bill was under discussion, and it was rejected by the House. It was first rejected by the Select Committee and then by this House. As was pointed out by the Hon'ble Minister in his opening speech and by Mr. Townend, this Bill to-day does not profess to reopen any question of principle. It wants to register the will of this Legislative Council on certain matters in the Act which have been wrongly worded by mistake or mischance. The views of this Council, so far as the question of enfranchisement of the people who pay cart registration fees was concerned, were unmistakably expressed during the discussion of the Bill last year and it was turned down. Therefore, I think, it is too early to bring forward this matter again. After the Act has been in operation for some time, it will be time to reopen this question.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am not surprised at the opposition which has been made to this amendment by my friend, Mr. Narendra Kumar Basu. Because this particular matter was rejected on a previous occasion, that, I think, is no ground for opposing it again, if the cause is really good. There should not be any objection to the cartmen being included. My friend will probably remember that these cartmen were originally excluded from the draft Bill, but the Select Committee agreed to include them in the Bill; subsequently, they were again left out, and opinion was very much divided on this point. I think this Council ought to look into this question on its merits. As has been explained by Maulvi Tamizuddin Khan, every class of people who pay any tax has got the right of franchise. Then why on earth the cartmen should not have the same right? Is it because they are poor people, or because they have no need of municipal amenities? I cannot understand why of all persons the cartmen have been especially chosen to be excluded from this Act. A man who pays tax on horse has the right to vote, but if he pays tax on bullocks, he does not get the right. I do not know whether if a man instead of putting two bullocks puts two donkeys to his cart, he will be enfranchised. I think in fairness to these people who are a very important class in municipal towns and whose usefulness cannot be underrated and who as a class are interested much more than anybody else in the general municipal amenities of the town, for instance, good repairs of roads, etc., they should have a voice in the municipal administration of the town. For these reasons, I very strongly support the amendment before the House.

Mr. P. BANERJI: I beg to support the amendment moved by my friend, Maulvi Tamizuddin Khan. I am not at all surprised that Mr. Narendra Kumar Basu, an old man as he is, should oppose it.

Mr. NARENDRA KUMAR BASU: Sir, I do protest against being called an old man. I am certainly not as old as Mr. Banerji. (Laughter.)

Mr. P. BANERJI: I should like to tell my friend that in these days of democracy it should be the right of every man to exercise the vote. The Hon'ble Minister has also said that every man who pays fees and taxes should have a vote. Khan Bahadur Muhammad Abdul Momin has asked why of all persons these cartmen should be deprived from voting. The reason is not far to seek. It is this, that in these municipalities there are so many hundreds of cartmen who, if enfranchised, will oust interested persons from their places in the municipality which they have been occupying for a very long time. In the next election it is quite possible that a cartman might become a Minister. It will not debar a cartman from coming into the Council and taking his seat amongst the Ministers. That being the case, I

think that in the fitness of things and in the name of democracy, the Hon'ble Minister should not have deprived the cartmen from the right of voting, and I suggest that he should accept the amendment.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, I think the amendment is an important one. In these days of democracy it is not right that those who are contributing to the municipal fund should be excluded from having their say in the administration of the municipality. People say that those who pay the piper have the right to call for the tune. Let me ask the treasury bench whether it is not a fact that a substantial portion of the municipal fund comes from the carters. Those who have any knowledge of the working of a municipality know as a matter of fact that the carters are rate-payers and residents within the municipality. Sir, I have experience of the municipal administration, for, say, over two decades, and my knowledge of municipal administration emboldens me to tell you, Sir, that a serious wrong has been done to the carters. As they contribute sufficiently to the funds of the municipalities, it is fair that they should have a hand in the administration of that fund. Perhaps the question at the back of everybody's mind is that by allowing these carters to vote, a lot of Muhammadans will be enfranchised. I admit that in some places the Muhammadans will have some seats. As far as my information goes, in the municipal areas of Northern Bengal almost every carter is a Hindu, hailing from Bihar. So, in North Bengal the Muhammadans will not have any advantage over the Hindus in the matter of voting. In East Bengal, probably, the Muhammadans will have some advantage. So, one will counterbalance the other; in this case I hope Government will think over the matter as a whole. If the Muhammadans have an advantage in certain areas, they will be at a disadvantage in others. So I would ask my friend, the Hon'ble Minister, to see if it is not possible for him to accept this motion, because these carters were really voters before. Why have you now disenfranchised them? What business—what right—have we as representatives of the people, returned by the very same carters, to show to this House that we are voting against our own voters. For these reasons, Sir, I would respectfully urge that the motion be accepted by the House.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Maulvi ABDUL HAMID SHAH delivered a speech in Bengali of which the following is a translation:—

Mr. President, previous speakers have pointed out how the activities of cartmen who ply bullock-carts are very closely connected with trade and commerce, making for the prosperity and development of municipal

towns. Cartmen contribute a respectable amount to the funds of the municipalities, and they should have the right to call for an account of the sums of money spent by the municipalities. I think the Hon'ble Minister for Local Self-Government still remembers what he said while moving the Bengal Municipal Bill in this Council. He declared that in presenting the Bill his intention was to extend the scope of self-government by widening the franchise. But at the last elections to the Kishoreganj Municipality it was found that the names of the carters had been struck off the electoral rolls. The carters very much regretted this and protested strongly against it. Thus, here we find an instance which goes against the professed intention of the Hon'ble Minister to increase the number of voters for the municipal elections. The carters who have been from the very outset included in the list of voters are now excluded from it. We hope the Hon'ble Minister in charge would kindly issue a statement to meet the grievances of those who have thus been deprived of their voting rights as well as to prove the value of his previous statements. Unless the injustice done to carters is redressed immediately, the time is not far away when we shall see the entire breakdown of the system of transport.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the object of the Bengal Municipal Act, as it was passed by this Council last year, was certainly to extend the franchise and not to restrict it. That object was attained by the acceptance by the House of this provision. It was the House which decided that the carters should be left out. Now it is proposed that the carters should be included. As has been pointed out by Mr. Narendra Kumar Basu, the question was discussed threadbare in the Select Committee; it was also discussed threadbare on the floor of this House; and the ultimate decision was that the carters should be left out. Now, if the House again decides that they should be included, then I think that it would be going back on the principle that was accepted by this House. When introducing this Bill, I explained that it is a purely validating measure. No substantive changes are proposed in this Bill, and it is very difficult to agree to any substantive changes in this measure. In fact, several defects in the Bengal Municipal Act have already been brought to the notice of Government, and it would be necessary for Government to bring forward a more comprehensive Bill to remove those defects. When that Bill is brought up, Government would certainly be glad to consider the proposal which is now made, *viz.*, to enfranchise the carters along with the others. But there is no justification whatsoever to incorporate this proposal in the present Bill.

Sir, it was this House, which, after very careful consideration, left out the carters, and though it was a Government measure the

decision was of the House itself. I hope, therefore, that the House would stick to that principle. I can, however, assure the hon'ble member, who has moved this amendment, as well as those who have supported it, that when the amending Bill will be brought up by Government, it will certainly be one of the points that will be carefully considered by them. I hope that on this assurance the mover will withdraw his motion.

Maulvi TAMIZUDDIN KHAN: Sir, on the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw my motion.

The motion was then, by leave of the House, withdrawn.

Clauses 3 to 12.

The question that clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 stand part of the Bill was put and agreed to.

Preamble.

The question that the Preamble stand part of the Bill was put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Nurses Bill, 1933.

The Hon'ble Sir WILLIAM PRENTICE: I beg to introduce a Bill to provide for the registration and better training of nurses, midwives and health visitors in Bengal.

The Secretary then read the short title of the Bill.

The Hon'ble Sir WILLIAM PRENTICE: I beg to move that the said Bill be circulated for the purpose of eliciting opinion thereon before the 15th November, 1933.

I do not know what Dr. Amulya Ratan Ghose is going to say later on, but as a precaution I had better tell the House a little of the history of this Bill. The idea was started about 10 years ago of arranging for the better training of nurses and midwives and of securing the recognition of nurses trained in Bengal outside Bengal. In 1923 the Government of India suggested that a Bill should be drafted for the

purpose and in 1926 the State Medical Faculty submitted a draft Bill. That Bill was duly and leisurely considered, because it was only in 1928 that the Bill was sent up to the Government of India. The Government of India approved the Bill generally and asked us to pass the Bill and submit a syllabus for the training proposed under the Bill. That was done, and in 1929, when we sent up the syllabus, we were again asked to pass the Bill and submit the draft regulations that we proposed to frame under the Bill. The State Medical Faculty submitted certain revised rules in 1930 and the Bill has now emerged in its final form in 1933. The Bill in its final form has been approved by the State Medical Faculty, which considered it through a Special Committee, on which there were several representatives of the nurses and also a member of this Council, namely, Rai Bahadur Dr. Haridhan Dutt. The Bill is not, therefore, one which has been prepared in haste, and I hope the Council will at any rate recognize that a great deal of work has been done on this difficult subject, and pass the motion that the Bill should be circulated. We have proposed that public opinion should be elicited by the 15th November; that is, we are giving practically 2½ months' time for its consideration by the public.

There are two amendments, one extending the time to the 31st December and the other standing in the name of Dr. Amulya Ratan Ghose who, although he has tabled a motion for circulation by 31st March, now says that he proposes to oppose the very introduction of the Bill. I suspected that his amendment was intended to be a dilatory motion, and so obviously it is, but I hope the Council will reject it and pass the motion for circulation that I have proposed.

Dr. AMULYA RATAN GHOSE: I rise to oppose the motion on the ground that it is——

Mr. PRESIDENT: But what about your own motion? Are you not moving it?

Dr. AMULYA RATAN GHOSE: Shall I not get an opportunity of moving my amendment if this one fails?

Mr. PRESIDENT: I think you had better move your amendment and make one speech on both. That is the best thing to do.

Dr. AMULYA RATAN GHOSE: I beg to move that for the figures and words "15th November, 1933," the figures and words "31st March, 1934," be substituted.

The Bill is not necessary at present. It will not be to the interest of the people of Bengal to have this Bill passed into law and the

primary object of bringing forward this Bill by the Hon'ble Member is perhaps to follow the example of the Bengal Medical Act, 1914. At that time there was a necessity for such an Act in Bengal because several institutions used to grant certificates with colourable imitation just as the diplomas and certificates granted by Government institutions. To check those things and many other bogus affairs with regard to medical education that Act was brought into force, but about nurses there is no such thing at present in Bengal. There is no institution run by private enterprize which is not recognized by Government where nurses are trained or can be trained. Moreover, the Medical Act was necessary because at that time doctors, who used to practise medicine and surgery in Bengal, did not pass out of any recognized medical institution in Bengal. So they were a great danger to the public as the Government found out at that time. For that reason the Medical Act was passed, but as regards the nurses they are not allowed to practise, or prescribe medicine; they are not allowed to treat patients, so there is no apprehension of danger from the nurses. In Bengal at present there is a great necessity for qualified nurses. Almost all the nurses that we see now are qualified, but if this Act is passed I am afraid there will be lesser enthusiasm amongst the nurses to get themselves registered. For want of money there will not be many nurses who would be enthusiastic enough to get their names registered. Thus, there will be a dearth of qualified nurses in Bengal.

For these reasons I think that enough time ought to be given to the public to consider this Bill, and if this Bill be not circulated for a longer time than is proposed by the Hon'ble Member, then I do not think that the exact opinion of the public can be received. Therefore, I propose that the Bill be circulated for a longer period and I hope the Council will accept my proposal.

Rai Sahib AKSHOY KUMAR SEN: I beg to move that for the figures and words "15th November, 1933," the figures and words "31st December, 1933," be substituted.

It is an important piece of legislation and the Hon'ble Member is good enough to ask for public opinion and fix the time as the 15th November. I do not know exactly if there will be any meeting of the Council in November or December, so some more time should be given to the public to give their opinion and the Bill may be passed into law in February. An extension of time up to the 31st December should, I think, be granted. But if there be any meeting in November or December, then I do not press my motion.

Dr. NARESH CHANDRA SEN GUPTA: I do not want to oppose the motion for circulation of the Bill, but at the same time I must say that I look upon the Bill with a considerable amount of misgiving. It is not as if it is a simple or innocent proposal for the registration

of nurses; it is much more than that. If you will look to section 26 you will see that it provides that no person shall without the permission of the Local Government after the expiry of 5 years from the commencement of this Act be employed in or by any dispensary, hospital, infirmary, or lying-in hospital which is supported partially or entirely by public funds or local funds, as a nurse, midwife, or health visitor unless she is registered under this Act or is under training in any institution recognised by the Council. This section shows that what is meant is that after registration none but registered nurses should be allowed to act in any hospital, dispensary, or infirmary, or anything of the sort. I am in perfect sympathy with any endeavour to provide all the hospitals and dispensaries and infirmaries in Bengal with good and qualified nurses and any measure which seeks to do that will have my unstinted support. But this Bill is putting the cart before the horse. How many trained nurses have we got now? Are there enough of them to supply the needs of the city of Calcutta, not to speak of the outlying districts? That is a fact that Government recognise and in section 26 they cannot provide that no unregistered nurse shall be able to work in any hospital or dispensary forthwith, but they postpone it for 5 years in the hope perhaps that in the course of 5 years they will have a sufficient number of trained nurses to take the place of the present untrained nurses in several of the places. I should have thought that the first step that Government should have taken would be to organise a system of teaching nurses. Last year I believe the Hon'ble Minister Sir Bijoy Prasad Singh Roy told us something about a proposal for organising the training of nurses. We have not yet heard of anything of that proposal—what final shape that proposal has taken and how far it has progressed. In any case, that proposal cannot in the course of 5 years possibly give us all the nurses that we should want to give effect to section 26. That is an important point. Until we have anything like a sufficient number of trained nurses, it is futile to have registration of qualified nurses. You will have to do with unqualified nurses so long as you do not have a system of training and a sufficient number of graduates out of the training institutions. For this reason I think this Bill ought now to be left over until we have the other proposal of the Hon'ble Minister in charge of the Medical and Public Health Department taking shape; until we find that he has formulated a scheme by which we will have an abundant supply of qualified nurses and we find how far any such scheme for training of qualified nurses makes a distinction in favour of, or against, any particular institution. Sir, we know that at the present moment to make up for the dearth of trained nurses certain private bodies have been trying to train nurses. We should like to know what place those public bodies will find in the scheme which will be devised by the Hon'ble Minister before we can agree to a scheme of registration. We must be sure that the scheme for registration envisaged by this Bill

does not operate against the laudable private endeavours made towards providing a body of trained nurses. For this reason I am entirely against this Bill at the present moment. But I think it will not be consistent with the convention of the House to oppose this Bill at this stage.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I rise to say a few words about this Bill which affects the profession to which I belong. I am really surprised to find, what I may say, the colossal ignorance of some of my friends as to what is being done in the country regarding the training of nurses. The Hon'ble Sir William Prentice has already told us that this is a question which has been before us for more than 15 to 20 years. Since I was a young medical man, I have been hearing of the registration of medical men as well as nurses. The registration of medical men has been effected and in the beginning the same kind of opposition, that I hear now about the registration of nurses, was there. But since the registration of medical men has been effected, I believe I shall not be contradicted by anybody when I say that everybody has now been satisfied with that measure which has done nothing but good to the country. Similarly, Sir, there is opposition now with regard to the scheme for the registration of nurses. It cannot be denied that at the present moment the number of trained nurses is very few, whether Indian, Anglo-Indian or European. The total number of nurses, of course, is not very small. But whatever the number may be, there is an admixture of nurses with practically no qualification. These nurses are sometimes being mistaken as qualified nurses. Such was also the state of affairs in regard to the medical men 15 years ago. It was extremely difficult to distinguish between a qualified and an unqualified man. Similarly, if Dr. Sen Gupta wanted a nurse for any of his sick relatives, he would find great difficulty in choosing the right sort of nurse. My friend has many misgivings and one of them is that private institutions will be debarred from training nurses as a result of this measure. Sir, I may not have the same acumen as my learned friend, but the general common sense that I have leads me to think that as in the case of the registration of medical men, where representatives of medical men were left to decide which of the qualifications should be registered and which not, so also the Registration Board in this case of nurses will decide which qualification will be allowed to be registered and which not. If any private body train nurses and give them sufficient qualification, I believe that body will be recognised as an authority to train nurses. Supposing the Calcutta Corporation or the Chittaranjan Hospital or any institution like that starts with a body of persons who are in a position to train nurses, I presume that that body would be recognised by the Registration Board and would be allowed to train nurses. My friend Dr. Sen Gupta should remember that more the number of such bodies the better

will be for us, as the number of nurses at the present moment is very small. There are difficulties in the way and some of the difficulties are almost insurmountable. We ought to encourage the coming in of a larger number of our sisters to the nursing profession. At the present moment there is considerable dearth of suitable candidates among Indians for this profession. My friend ought to take up that attitude which will encourage our sisters to come forward and take up this profession—a profession into which they need not hesitate to enter. I shall appeal along with the mover to my friends to encourage the registration of Indian nurses and make every attempt to have a large number of qualified Indian nurses in the country.

One word about the attitude of Dr. Ghose who I am surprised has taken up a different view to mine. He perhaps realises that the nurses in Howrah are very few, and I say without fear of contradiction that 99 *per cent.* of them are unqualified. I shall pause for an answer. Is it to the glory or the honour of the profession to which he belongs? Medical men ought to be the leaders in such cases. The nursing profession is such that the medical men cannot do without it. We ought to see how the nurses could be improved. I appeal to Dr. Ghose not to take up the attitude which he has shown by his dilatory motion for deferring the collection of opinions up to the 31st March. I do not know what has inspired him to fix 31st March. He thinks perhaps he or we will not have an opportunity of discussing the matter again. I do not know what Rai Sahib Akshoy Kumar Sen means by wanting to defer the collection of opinions by another month. It means that we shall not have an opportunity of considering this at the next sitting of the Council. I do not like at this stage to take up your time any further. I know the Bill will be debated upon for a longer time on the floor of this House, and so I appeal to my friends, especially the medical men, not to put any obstacle in the way of the Bill being taken into consideration as soon as possible.

The Hon'ble Sir WILLIAM PRENTICE: I should just like to say a few words about the points raised by Dr. Naresh Chandra Sen Gupta. He has referred to clause 26; but if he will also read clause 31(*1*)(*a*), he will find that it says:—

"The Council may, with the previous sanction of the Local Government, make regulations for regulating the courses of training for nurses, midwives and health visitors, the recognition of institutions competent to undertake such training, the conduct of examinations of trained nurses, midwives and health visitors, and the remuneration, if any, of examiners."

Dr. NARESH CHANDRA SEN GUPTA: But there is no provision for any school for the training of nurses.

The Hon'ble Sir WILLIAM PRENTICE: Then what does "recognition of institutions competent to undertake such training" mean? Does not that include schools?

But in any case what apparently Dr. Sen Gupta thinks is that until you have a lot of institutions for the training of nurses you cannot regulate the courses of training. I suggest that if you are going to start such institutions, it would be just as well that they should know the kind of training which experts deem it advisable should be given in them.

As regards Dr. Sen Gupta's point regarding clause 26, 5 years is a matter of detail and obviously it is one of the points which would be considered in the Select Committee, supposing the Bill ever goes there. It is obviously one of the points which the public bodies, which would be consulted if this motion for circulation were passed, would deal with in their opinion. From the point of view of the employment of nurses also, this provision is important. I do not pretend to be an expert in this matter, but I am told that a lot of the difficulty in getting people to enter the profession of nursing is due to the fact that there are no prospects. Obviously, Sir, if after a certain period the staffing of hospitals and similar institutions is confined to registered nurses, that will increase the prospects for trained nurses and may draw a larger number into the profession. But what surprised me most in this discussion was the remark of a doctor from Howrah—I mean Dr. Ghose. As far as I could understand him, he first said that there was no difference between trained nurses and untrained nurses; then he said a great deal about the need there was for qualified nurses. Surely, the whole object of this Bill is to produce qualified nurses in whom the patients and the doctors can have confidence.

As regards the date, Dr. Haridhan Dutt indicated why we chose the middle of November. If we meet before Christmas, this Bill may come up at that session with the opinions that we shall have received and the Bill can be referred to a Select Committee in that session, so that it may be ready for discussion in the session after the New Year, so that if the Council wants to pass the Bill it can do so before next April. If you prefer the later date, 31st December, you will be postponing the Select Committee to a time when we shall be busy with the budget. Ten weeks is, I submit, surely ample for giving a considered opinion on the Bill, and my suggestion is that the Council reject these amendments and pass my original motion.

Rai Sahib Akshoy Kumar Sen's motion was put and lost.

Dr. Amulya Ratan Ghose's motion was put and lost.

The Hon'ble Sir William Prentice's motion for circulation was put and agreed to.

The Bengal Places of Public Amusement Bill, 1933.

The Hon'ble Sir WILLIAM PRENTICE: I beg to present the report of the Select Committee on the Bengal Places of Public Amusement Bill, 1933.

I also beg to move that the Bill as reported by the Select Committee be taken into consideration.

The Council will see that the Bill has emerged from the Select Committee with very few changes. The only important change is the one that involves the introduction of the new clause 5B. The Council will remember that when I introduced the Bill, I pointed out that we had asked the Council to give us power to notify games which were in our opinion not in the public interest. When the Bill went to Select Committee, the view taken there was that it was undesirable that games which were against the public interest should continue to be played until the ruling of the Local Government was received. Therefore, the Select Committee inserted this clause by which it will be open to the Commissioner of Police and the District Magistrate to suspend the playing of certain games pending a reference to the Local Government. That is really the only alteration of substance that has been introduced in the Bill by the Select Committee, and I move that the Bill be now taken into consideration.

The motion was put and agreed to.

Clause 1.

The motion that clause 1 stand part of the Bill was then put and agreed to.

Clause 2.

Dr. NARESH CHANDRA SEN GUPTA: Sir, with your permission, I wish to make a drafting change in the amendment standing in my name, and I move it in the following form:—

"That to clause 2(3), the following words be added, namely—'but does not include a theatre or a cinema house where no diversions other than music, singing, dancing, dramatic representations or cinematograph exhibitions are provided.' "

The main object of the Bill as you will gather from sections 5A and 5B and other sections is to prohibit the playing of certain games that are against the public interest in the public places to be notified by Government. I do not think there can be any occasion for the application of this Act in those houses where no such games are carried on. That being the case, I wish that those houses should be excluded from the purview of the law itself so as to place them outside the range of the attention of the authorities responsible for the operation of this Act.

The Hon'ble Sir WILLIAM PRENTICE: As I explained when introducing it, this Bill had been introduced at the instance of the Council. This amendment raises a point which I am perfectly willing to leave to the Council. I would only point out that under clause 10(*2*), you can provide for the conduct of the notified place of public amusement in a decent and orderly manner. It is quite possible that you may have diversions which are not decent and orderly, and if you exclude theatres and cinema houses, you may have excluded places which otherwise the local authorities would desire to notify. The Act does not apply to a place of public amusement until it is notified and the Local Government will not notify any place until and unless there is reason for doing so. I think what the danger that Dr. Sen Gupta apprehends is very far distant, but I leave it to the Council to decide whether they want to have that safeguard inserted. Personally I object to it.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I would like to draw the attention of Dr. Sen Gupta to my amendment No. 9. Whereas Dr. Sen Gupta wants to confine to diversions other than music, dancing, etc., I want to put safeguards with regard to all places, such as dwelling places, vessels, stands, etc., because we find that in sub-clause (*3*) all those things may be quite harmless and innocent by themselves, and it is only when there is gambling that it becomes offensive. If Dr. Sen Gupta's amendment is accepted, it will practically rule out my amendment. For this reason, I think the amendment should not be accepted, and it would be better if we have an amendment in a comprehensive form as I have put in.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that to clause 2(*3*), the following be added, namely:—

"but does not include a private dwelling house, temple or place of worship."

Sir, in ordinary circumstances it would have been absurd to move such an amendment. It strikes me that there is a great weakness in the Bill that has been brought before the Council. In clause 3, the Local Government take power to notify any places or classes of places of public amusement, and the whole Bill hinges on that clause. Now, the Government as yet have not made their position clear. Even the Select Committee has not reported under what circumstances Government are going to notify a particular place of public amusement as a notified place of public amusement. Therefore, we should be very cautious in examining the definition of "place of public amusement." As it is, it appears to be a very comprehensive definition. It seems we

are not going to leave anything outside the definition. I may read out the definition as it stands in the Bill. It says: " 'place of public amusement' means any place, enclosure, building, vessel, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game or the means of carrying on the same is provided and to which the public are admitted either free or on payment of money or on any other consideration and includes a carnival, circus or amusement park." If we leave it as it is, then a dwelling house where a *jatra* performance is going on may be notified as a place of public amusement, although there is no question of gambling there. Of course, it would be different if a place where gambling is carried on be declared as a place of public amusement, but if you read this Bill, you will find that Government have not yet made up their mind as to what will be against the public interest. Again, if private dwelling houses, temples or places of worship are not omitted, it may lead to great inconvenience to the public. Later on in the Bill we find that power is given to the police to investigate such places of public amusement. How do you like, Sir, if your house is invaded by a batch of policemen when some music is going on there? Then again, in many temples singing and dancing are allowed. Are you going to bring those temples within the purview of this Bill? I would like the Government to make their position clear. Taking advantage of the feeling of the people for stopping certain abuses that have crept in in certain places of public amusement, they should not try to arm themselves with the power which may be abused by their underlings and which may be difficult for the Hon'ble Member in charge to control from his place in the Writers' Buildings. Any legislation should not be of such a nature that it may give cause to undue friction and inconvenience to the public. I hope the Hon'ble Member will accept my amendment and not oppose it. I am sure that if he opposes it, he will certainly earn for himself the title of the Hon'ble Kill Joy Prentice.

Rai Sahib AKSHOY KUMAR SEN: I beg to move that after clause 2(*3*), the following be added, namely:—

"Provided that it shall not include any place where music, singing or dancing are allowed under the religious tenets or custom of any community."

Sir, it will be seen that my motion deals with something different from that dealt with in motion No. 6. I submit that the definition of public amusement as given in this clause is very very wide. It means that it may include any place, *e.g.*, a street, a dwelling house or any other place whatsoever. So, I want to put in some restriction. Supposing a procession of a *sankirtan* party is going through the

street; it may be stopped by any Magistrate if in his opinion it should not be allowed. And, moreover, in temples and other places of worship such things are allowed under the religious tenets of some communities. My submission to this House is that this proviso be added to the clause. Of course, I find that there is clause 3 under which Government reserves to itself the power of issuing a notification declaring any places or classes of places of public amusement specified in the notification. I see that there is that provision, but the point is that unless and until we find that there is such a restriction as is proposed by me that religious observances are not affected in any way by this definition of places of public amusement, I think the public will have some apprehension. And in my opinion the definition should not be made so wide as to include these places also.

Now, Sir, as regards the reason why I have not inserted anything about gambling or games whatsoever, I know that under this legislation Government may reserve to itself the power of declaring even a dwelling-house to be a notified place of public amusement under clause 3. My proposal does not mention anything of game whatsoever, but mentions music, singing, and dancing, etc., which are allowed under the religious tenets or customs of any particular community. My submission, therefore, is that this matter should be seriously considered before the clause is accepted by this House.

Mr. NARENDRA KUMAR BASU: Sir, I rise to oppose the amendment of Rai Sahib Akshoy Kumar Sen completely and that of Mr. Shanti Shekhareswar Ray partially. I should like to ask the House to remember that if amendment No. 7 be accepted by the House, it would only give loopholes to people for escaping the clutches of the law. I need hardly remind the House that under the provisions of this Bill all the power that is taken on behalf of the executive and of the police is restricted to certain classes of games, and if the principle of this amendment, *viz.*, that "it shall not include any place where music, singing, or dancing are allowed under the religious tenets or custom of any community," is accepted, then because music, etc., are allowed at a place, my friend would allow any games also to be played. That would really make the Bill absolutely inoperative. If my friend, the mover, had any idea as to the volume of public opinion behind this Bill—especially of the poor people who want a measure of this description to be passed without any delay—I am quite sure he would not have tabled an amendment which would defeat the very object of this Bill.

As for Mr. Shanti Shekhareswar Ray's amendment, I do not think it would be ever possible even for the Hon'ble Sir William Prentice to include a private dwelling-house in a notified place of public amusement, and I would ask Mr. Ray not to think always of Government as in a kill-joy mood towards private amusement. I think, however, that

Government in this instance ought to have the sympathy of even this side of the House when it is trying to do some good to the public. I, therefore, hope that both these amendments will be withdrawn.

Rai Sahib AKSHOY KUMAR SEN: On a point of order, Sir. I beg to submit that there is nothing in my amendment——

Mr. PRESIDENT: That is not a point of order; it is an argument.

The Hon'ble Sir WILLIAM PRENTICE: Sir, Mr. Narendra Kumar Basu has demolished the Rai Sahib's amendment. I would only add this. I do not know whether the Rai Sahib is a lawyer by profession. If he is, then I cannot imagine a more excellent amendment than this from the lawyer's point of view, because it seems to me that if the words "it shall not include any place where music, singing, or dancing are allowed under the religious tenets or custom of any community," are added to clause 2(3), then the meaning of the clause will be very vague and its interpretation will give the lawyers excellent opportunities for litigation.

As regards Mr. Shanti Shekhareswar Ray's amendment I can understand it, because he is extraordinarily suspicious of the executive——

Mr. SHANTI SHEKHARESWAR RAY: Of course, I am.

The Hon'ble Sir WILLIAM PRENTICE: At any rate he pretends to be. (Laughter.) I would, however, ask him to remember that this Bill has been brought forward at the request of the Council. It is not we that are seeking these powers: we like a life of peace. It is the Council which wants us to interfere in this matter; and the whole object of the Bill is to enable us to get at those places where gambling, to which the Council takes the strongest objection, takes place.

Sir, I am sorry to differ from Mr. Narendra Kumar Basu in regard to what he said about private dwelling houses. I can quite easily imagine that a dwelling-house which is not used by the proprietor may be hired along with its grounds for the purpose of holding a carnival and that all the gaming implements may be placed inside the dwelling house. Do you think, Sir, that such a dwelling house should be exempted? That is one possible interpretation of this amendment. Now, if you want the executive to try and deal with gambling, the executive must have the power to deal with any locality or building in which gambling may take place. In this connection, I would ask you, Sir, to remember that the Act does not come into force until the Local Government notifies a place as a place of public amusement. The notification has to be published first. Further, the power of

suspending the playing of certain games under clause 5B only comes into being after a place has been notified by the Local Government. Government have got no intention of notifying a temple or a street as a place of public amusement and there need be no apprehension that *sankirtan* party will not be allowed to go along a street. I suggest that these amendments might be withdrawn.

The motions of Mr. Shanti Shekhareswar Ray and Rai Sahib Akshoy Kumar Sen were then, by leave of the Council, withdrawn.

The motion that clause 2 stand part of the Bill was put and agreed to.

Clause 3.

Rai Sahib AKSHOY KUMAR SEN: Sir, before I move my amendment, I submit that amendments Nos. 8 and 10, both of which stand in my name, may be taken up together.

Mr. PRESIDENT: I think it is better for you to wait until amendment No. 9 is disposed of. You may then move your amendments Nos. 8 and 10 together.

Rai Sahib AKSHOY KUMAR SEN: Very well, Sir.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 3, in line 3, after the word "notification," the following words be inserted, namely:—

"which are used or are likely to be used for the purpose among others of gambling in any form directly or indirectly whether the same is prohibited under any existing law or not, or of playing of any games or class of games which, in the opinion of the Local Government, is against public interest."

In moving this amendment I want sincerely to congratulate the Hon'ble Sir William Prentice for so promptly responding to the expressed wishes of the House regarding the subject matter of this Bill. When I moved my resolution, which was carried in this House last session, I did not expect as a matter of fact that he would bring forward a Bill to remedy the evil, which was so earnestly and devoutly desired. This, I think, is an indication of the responsive mood of the Government. I would that the occasions for such congratulation were more frequent.

Now, Sir, as regards this amendment; I might tell the House at once that it is not born of any suspicion of Government. I do not—to quote the words of the Hon'ble Member in charge of the Bill—"pretend" to suspect the executive always, but I do suspect them when I find that there is occasion for suspicion. This amendment is not the result of any suspicion. By it I want to make it clear that the machinery of Government will move only under the circumstances which are contemplated by the very Bill itself. I would draw the attention of the Hon'ble Member in charge to clauses 5A and 10. These clauses speak of the conditions to be mentioned in the licence, the main being the prohibiting of gambling or of such games as are considered to be against public interest. This is certainly the object with which this Bill was drafted, and in the Preamble itself this is mentioned. Considered from this point of view, we note so far as this sub-clause 2(3) is concerned, the matter has been, to my mind, put very widely, "place of public amusement" which can be notified at once without any limitation are—enclosure, building, vessel, tent, booth, or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game or the means of carrying on the same, etc. Is that not too wide? I want to make a little verbal alteration in my amendment, already tabled, *viz.*, I want to omit the words "is about to be or."

Sir, I admit that all these places must be included. I am not in agreement with Mr. Ray's suggestion to exclude a dwelling-house, because we know that every place may have its good use and bad use. The question is when are they to be notified? It appears, also, Sir, from the clause itself that Government cannot move unless a certain place, or building, or enclosure is being actually used for any objectionable purpose; that is to say unless and until actual mischief has started Government cannot come into the field. There is, therefore, an anomaly so far as this point is concerned; it may be that some mischief has already been committed before the Government can step in. I want, however, by my amendment to remove this anomaly and also to limit the power of Government with regard to interference (*sic.*) to those cases where actual gambling is carried on, and I want also to prevent the mischief in advance. It may be that there may be only a cover of innocence, the real purpose of the show, etc., not being at all innocent: we know full well how the Gambling Act is evaded in various ways.

Sir, while issuing the notification regarding certain places, where, say, certain performances are being held which are quite innocent, Government may be misled by false reports from enemies of the performers. Sir, I think there is no harm in limiting the power of Government to cases where there is actual gambling or even when there is the likelihood of gambling or playing games. I want also to say that Government should not wait in proper cases till some mischief

is done. What I desire is that the machinery of Government should move as soon as there is the least *bonâ fide* apprehension that a place is being used for any illegal purpose. That would remove all apprehensions which may be in the minds of some people, regarding the use to which the wide powers may be put as Government will move at the instance of its subordinate officers. I want to exclude the possibility of any mistake being committed on the part of anybody and, therefore, I would limit the exercise of the power to those cases where there is actual gambling or playing of games of chance or there is apprehension that it is likely to be the object of a certain party who has opened a place of amusement. There can be no objection to accepting my amendment. It will disarm a good deal of suspicion. It cannot, of course, be denied that in certain cases, where the law is very good and terms unexceptionable, even in such cases some abuse may result, because somebody has not been quite on his guard or as cautious as he ought to be. If this suspicion can be removed, I think it would be better for the working of the Act, and I am proposing nothing which is beside the real object of the Bill, which is embodied in sections 5A and 10, and which is to stop gambling and playing of games of chance. For these reasons, I commend my amendment both to the acceptance of the Hon'ble Member and to the acceptance of the House. That will also remove the objections which some member has, as indicated by some of the amendments tabled. It will not also interfere with the proper working of the Act; nor will it hamper the executive in the discharge of its duties promptly, which is really desirable in such cases. I do not want the Government action to be held up at all. My amendment, in fact, goes further than the original Bill as the provision thereof cannot be used till after the mischief has been done, but I would like them to take time by the forelock and stop the mischief before it starts.

Dr. NARESH CHANDRA SEN GUPTA: I am sorry I cannot support this amendment. Of course it is not a *quid pro quo*. I wonder whether my hon'ble friend has appreciated the fact that the effect of accepting his amendment will be to reduce the Bill to absurdity. Under section 3, the Government notify a place of public amusement, and he wants that no place should be notified as a place of public amusement unless it is used or is likely to be used as a gambling place. What does section 4 provide? It provides that Government after notifying a place to be a place of public amusement, that is to say, where gambling is or is likely to be carried on, grants a licence for it. I think that is *reductio ad absurdum*.

Mr. SHANTI SHEKHARESWAR RAY: I support the amendment moved by Babu Satish Chandra Ray Chowdhury. My ground is, as I have already said, that Government ought to be very clear as

to what they really want. As it is, we are leaving very vague and wide powers in the hands of Government which Government may find it very convenient, but which may prove to be against the public interest. Sir, public interest is a phrase which we are already familiar with. There are certain things which from the Government's point of view are not in the public interest, but which from the point of view of the public is in the public interest. So long as this continues, we ought to be very cautious in investing the Government with wide and extensive powers which may be misused. My friend Mr. Satish Chandra Ray Chowdhury has tried to give a suggestion about limiting the scope of the measure, and I think Government ought to accept it; if it is not really their intention to acquire power with a view to do other things. (A VOICE: What are the other things?) For instance, the other things which Government may do, are that it may get into the head of the Hon'ble Member in charge of the Political Department that the performance of a *jatra*, for instance, by Makunda Das is not in the public interest, and he may notify that in the public interest a scene of a *jatra* by Makunda Das may be a notified place of public amusement. Well, Sir, we know that even in the existing condition of things Government or district authorities have power to stop such performances, under certain sections of the Criminal Procedure Code. We do not want to give Government an additional handle to misuse their power. So, I think Government should accept this amendment. The Hon'ble Member has said that he has brought forward this measure in response to public feeling, and I can assure him that the public feeling is that these games should be stopped and not that Government should be entrusted with power that they may misuse.

Rai Bahadur JOGESH CHANDRA SEN: I am afraid some of us are unnecessarily suspicious in this matter. This is not an Ordinance Bill that we should suspect Government at every step. On the contrary, we congratulate the Hon'ble Sir William Prentice in having brought forward this Bill so speedily. If I am permitted, I would suggest that we should take up all the sections together and pass them at once as this Bill is for our own good.

The Hon'ble Sir WILLIAM PRENTICE: As I said once before, I have not the vivid imagination of Mr. Shanti Shekhareswar Ray, and I never thought of dealing with *jatra* parties under this Bill. Nobody has ever mentioned it before. The preamble expresses our purpose; it says that it is expedient to provide for the better control of certain places of public amusement and for the prevention of gambling in such places. It is quite correct to say that it is the main object of the Bill to deal with gambling, but in some of the reports that came in from the District Magistrates, specially from the District Magistrate of Howrah, we were told that even the very wide powers

which they had were not sufficient for the purpose. But this is a matter which I leave entirely to the House; this is their Bill and, if the House wants to limit it in the way that Mr. Satish Chandra Ray Chowdhury wants, we will accept their decision. We leave it entirely to the House as to what powers we are going to have.

Dr. AMULYA RATAN GHOSE: The Bill has really been brought before the Council at the demand of the public, and it contemplates in a right earnest spirit to stop gambling in public places of amusement. The suspicion that has been given expression to by the mover is not the right suspicion. We need not apprehend in this matter at least that Government will misuse its power; so the necessity of this amendment is not much felt. I, therefore, would suggest to the mover that he will kindly withdraw the amendment.

Babu Satish Chandra Ray Chowdhury's motion was then put and lost.

New clause 3A.

Rai Sahib AKSHOY KUMAR SEN: I beg to move that after clause 3 the following new clause be inserted, namely:—

"3A. (*1*) For the purposes of section 3 of this Act Local Advisory Boards shall be formed with 15 members for the town of Calcutta and with 5 members for each *mufassal* district and that all such members shall be appointed by the Local Government from amongst the local non-official members of the public;

(*2*) the Local Advisory Boards shall exercise and perform such powers and duties as may be prescribed by the Local Government in this behalf."

And also that in clause 3, in line 1, after the words "Local Government may" the following be inserted, namely:—

"in consultation with the Local Advisory Board constituted under section 3A of this Act."

My point is this: In many other Acts there are provisions for Local Advisory Bodies. As for example in the case of the Bengal Excise Act Advisory Body, to whom certain powers have been given which were previously exercised by the Collector; and that the Excise Licensing Board was brought into being in this way. My point is that it will be useful to have an Advisory Body also in connection with this Bill; it will be a harmless body for Government may or may not accept the advice given by the Board, but I consider that such a Board is necessary in this sense that the local people are cognizant of the facts and are in a peculiar position to judge whether a particular amusement will really cause any breach of the public peace or would be against the public interest. Their opinion may also

be considered by Government, but they may or may not accept it. My proposal is harmless, and I think the Hon'ble Member will kindly consider this motion for the formation of Local Advisory Committees and accept it.

Maulvi SYED MAJID BAKSH: I beg to oppose the amendment on no other ground than the bulky size of the Advisory Committees. If it is to consist of 5 members from each district, then it will have 130 members in the 26 districts, which, together with the 15, make up 145, which would be a larger body than this Legislative Council. I do not know whether members of this body will attend meetings of the Board of their own accord or whether they would get any travelling allowance. If that is so, I do not find any such provision in the Bill. If the mover wants the Committee to function properly, then an entire sub-clause should be added that funds may be provided by the Local Government to pay the travelling allowance bills of members. As there is no such thing, I do not think it will be workable and, therefore, I oppose it.

The Hon'ble Sir WILLIAM PRENTICE: Sir, I do not know whether the Rai Sahib wants these Boards to meet like the Excise Licensing Boards. The idea of the Select Committee was that whenever the necessity arose, the local officers should be able to take action. An Excise Advisory Board though it may hold two or three meetings for the purpose has only one purpose to serve, namely, to deal with licensing proposals once a year. If such a provision is put in here, it means that action will be delayed, for the Local Government will have to refer every case back to a Board and get a meeting of it held before they can take action.

Rai Sahib Akshoy Kumar Sen's motions were then by leave of the Council withdrawn.

Clauses 3 and 4.

The motion that clauses 3 and 4 stand part of the Bill was put and agreed to.

Clause 5.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 5 (*1*), in line 5, after the word "fee," the words "not exceeding rupees ten *per annum*" be inserted.

Sir, the Hon'ble Member in charge of the Bill has many times repeated that his only intention in bringing forward this measure is to stop certain objectionable places of amusement, and he has done this entirely at the request of this Council. If that be so, I do not understand why he should try to raise some money by fixing a fee for

licences in connection with *bonâ fide* places of public amusement. I have still to hear his justification of this provision. Well, I would have objected to any fee at all, but I realise that the Government or the officers of Government may have to perform certain duties in connection with the working of this measure and so, perhaps, they may want to get something for that. In that view, I am willing to support a fee not exceeding rupees ten *per annum*. If it is the intention of Government to make something out of it, to let these public places of amusement flourish and to raise a certain amount of amusement tax, in that case the Government ought to make their position clear and not try to raise tax in this fashion. I think that on the merits Government should not in any case ask for a licence fee exceeding rupees ten. It is provided in the Bill that every District Magistrate will have the authority to impose a licence fee, say on a travelling show which goes from one place to another, and if that travelling show is asked to pay for every district it visits, anything above rupees ten will really be a high figure.

The Hon'ble Sir WILLIAM PRENTICE: My objections to this are two—one is that normally in legislation where a fee is to be levied, the amount of fee chargeable is left to be fixed by rules framed under the Act and not put in the Act itself, and therefore, it is undesirable to fix a fee in this Bill. In the second place, I am again surprised at the arguments used by Mr. Shanti Shekhareswar Ray; for I can assure him that Government do not think that they have discovered a new source of revenue: that is not the intention of the Bill. Government will consult District Magistrates, before the scale of fees is settled, and at present I have no idea what the proper fees should be. I have not examined the matter; but I think that it is quite possible that there may be a fee which will cover more than one district. Or again the fee may vary to suit different conditions in different districts. In any case, we have not examined what the scales of fee should be, and I think it will be a mistake for this Council to decide that ten rupees should be the maximum fee which should be fixed in any circumstances for a licence.

The motion was put and lost.

The motion that clause 5 stand part of the Bill was then put and agreed to.

Clause 5A.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 5A, in line 1, for the word "may," the word "shall" be substituted.

Sir, my reasons are more or less the same that I have been advancing in connection with certain clauses already accepted by the House. It

is this: that Government ought to be definite about what they want. At the same time, the public ought to know what games are in the opinion of Government against public interest. Of course, if this word "may" has the force of "shall," I am prepared to withdraw the amendment, but if it is the intention of Government not to notify, that is another thing.

The Hon'ble Sir WILLIAM PRENTICE: I do not really think that Government has any intention of taking on the job of declaring for every notified place that certain games are against public interest. It is only a power that is being taken to get over in certain cases the difficulty there may be in deciding whether a game is a game of skill or a game of chance. This is a power which will only be used when it is found necessary, and I think it will be a mistake to use the word "shall" in this clause. You must give some discretion to the Local Government.

The motion was then, by leave of the Council, withdrawn.

The motion that clause 5A stand part of the Bill was then put and agreed to.

Clause 5B.

Rai Sahib AKSHOY KUMAR SEN: I beg to move that clause 5B be omitted.

Sir, I do not see any reason why this clause was at all inserted. Clause 5A gives the Government ample power to declare any game or class of games specified in the notification to be against public interest. Government may declare that gambling in any form is against public interest and where gambling takes place, that place may be notified to be a place of public amusement. So this section which empowers the Commissioner of Police in Calcutta or the District Magistrate elsewhere to suspend the playing of any game pending the opinion of Local Government will give those officers such wide powers as in my humble opinion are not at all necessary. Government intends, as we can understand from the speeches of the Hon'ble Member in charge, to stop gambling which in the opinion of the public and, as he says, in his opinion too, is against public interest. That may be stopped altogether by the provisions of clause 5A. So my submission is that the Commissioner of Police in Calcutta and the District Magistrates elsewhere should not be empowered to suspend the playing of certain games. Gambling in any form may be declared illegal under clause 5A, but any game not in the nature of gambling may not be against public interest. So I move that clause 5B be omitted.

Mr. P. BANERJI: Sir, I rise to support the motion moved by Rai Sahib Akshoy Kumar Sen. This I consider to be a very reasonable

proposal in view of the fact that the Local Government have been given power under clause 5A. The Hon'ble Member can by an order classify certain games as coming within the purview of gambling. Our object, as has been stated, is to stop gambling in any form and the Rai Sahib has rightly pointed out that it will be an easy thing on the part of Government to put in the order that gambling in any form should be stopped. Therefore, I find no reason why such power should be given to the District Magistrate or the Commissioner of Police. If we go into details, we shall find that neither the Commissioner of Police nor the District Magistrate will have any personal knowledge whatsoever. They will naturally depend entirely on the reports of their subordinates. It has often been found, especially in the existing state of things in Calcutta when so many carnivals are carrying on their shows and when Government or the Police have some powers under the present law to control them, that they treated different cases in different ways. I may tell the Hon'ble Member who is nodding his head, that these carnivals that employ ex-Police officers such as Inspectors and other people are not harassed by other Police officers who do not go anywhere near these carnivals. The Hon'ble Member may inquire into the matter. Many persons may be hauled up in the Bankshall Street Court and fined. This provision will give a loophole to subordinate Police officers. In that view, I say that as this provision was not in he original Bill, it should not find a place here.

Mr. NARENDRA KUMAR BASU: Sir, I rise to oppose this amendment. I must say at once that this clause put in by the Select Committee has removed a lacuna in the Bill as it was introduced. Unless there is this power of dealing with emergencies vested in the District Magistrate or the Commissioner of Police, the position will not be improved. My friend who preceded me said that the power will be delegated to subordinate officers. May I draw his attention to clause 9 which provides that that delegation cannot be made below the Deputy Commissioner of Police in Calcutta or a Subdivisional Magistrate elsewhere, and I take it that nothing can be advanced against the honesty of both these classes of officers, especially as the offence will not be of a political nature. So far as this provision is concerned, I submit that there are no limits to the ingenuities of the gamesters and the law-breakers who want to delude people into gambling, and unless a provision of this nature is introduced, there will be no power to deal with emergencies and in each case we will have to wait till the Local Government moves, and we all know that the Local Government does not move quickly except in political matters. So I think this amendment ought to be opposed.

(The Council was then adjourned for ten minutes.)

(After adjournment.)

Mr. W. L. ARMSTRONG: I cannot understand this amendment or at all the sentiments that have been expressed in this House. We have the Police much in view, but here the Police instead of closing a place down will, if it has any doubt, refer the matter to the Local Government and suspend that particular game without closing the place down. As Mr. Basu has pointed out, there are various ways of playing games, a new game under a new name, and making money by chance. That means the Commissioner of Police will refer the matter to the Local Government and the Local Government must deal with it forthwith. In the Select Committee the matter was considered in the light of the views expressed in this Council and Sir William Prentice left it to us to consider the view of the Council. It is a Government Bill, it is true, but it has been forced upon the Government. If this Bill is to be so altered as many of the amendments would have it, then I am afraid I must oppose the amendments. It is a very good Bill, and I think this amendment, if accepted, will weaken the Bill. I think the Committee itself has realised the past discussions in the Council. The Bill, as it is, is absolutely perfect, and I hope it will be passed and the movers of the amendments will be good enough to withdraw and get on with the other Bill.

The Hon'ble Sir WILLIAM PRENTICE: I would only point out that clause 5B was inserted at the instigation of the non-official members of the Select Committee. It is entirely an addition made by the members of this Council, and I leave it to the Council to decide whether to accept it or not.

Rai Sahib Akshoy Kumar Sen's motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 5B, the following proviso be added, namely:—

"Provided that no such order shall remain in force for more than two months after it is made."

Sir, as section 5B is an emergency clause giving power to the District Magistrate to stop a game pending opinion of the Local Government, I propose that two months' time should be the limit, just as orders under section 144 are in force for two months only.

The Hon'ble Sir WILLIAM PRENTICE: I am prepared to accept this amendment, if the Council agree.

The motion was put and agreed to.

The motion that clause 5B, as amended, stand part of the Bill, was then put and agreed to.

Clause 6.

Mr. P. BANERJI: I beg to move that in clause 6(*1*), in lines 9 and 10, for the words "such period as may be specified in the order," the words "a period of not less than 24 hours after the service of the order" be substituted.

Sir, in moving my amendment I should like to point out to the Council that the words proposed to be substituted were in the original Bill. Subsequently, the wording of the clause was changed perhaps with the idea that 24 hours might be a short time and in order to give them relief, the District Magistrate might specify any time more than 24 hours. My point is that these persons should be given certain time and "not less than 24 hours" does not mean that it prevents giving more time than 24 hours.

The Hon'ble Sir WILLIAM PRENTICE: I would like to explain that this is another change made by the non-official members of the Select Committee. Their view was that if this change was not made people could go on playing an objectionable game for an additional 24 hours after the service of the order. The Select Committee decided to put in an indefinite time so that the order issued might suit the circumstances of each case, as they might appear to the Commissioner of Police or the District Magistrate. I leave this amendment, too, to the House.

The motion was put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that after clause 6(*1*), the following be inserted, namely:—

"(*1a*) Any Police officer may enter any notified place of public amusement if he has reason to believe that any such place is being kept open in contravention of the conditions of a licence granted under this Act."

Sir, the amendment speaks for itself. Unless Police officers are authorised to enter a place of public amusement, it would be very difficult to give effect to this Act inasmuch as it will be difficult to get evidence as to whether the provisions of the Act are going to be violated in those places of amusement.

Mr. NARENDRA KUMAR BASU: I shall just ask the mover of the amendment whether or not the definition of Police officer ought to be the same as in clause 6(*1*), that is to say, any Police officer authorised in writing in this behalf by the Commissioner of Police or the District Magistrate as the case may be. Otherwise the clause, as it has been moved, is such a wide one that it will give power to any Police officer to enter any house on that pretext, and with that indemnity

clause the power may be abused. In this matter I am sure the Council would be well-advised to add after the words "any Police officer" the words "who may be authorised in writing in this behalf by the Commissioner of Police or the District Magistrate as the case may be." Otherwise, I shall have to oppose this amendment.

The Hon'ble Sir WILLIAM PRENTICE: I was prepared to accept the amendment in the form moved by Maulvi Tamizuddin Khan, but I gather that Mr. Narendra Kumar Basu wants to insert in the amendment the following words from the last sentence of sub-clause (*1*) to clause 6, *viz.*—

"authorised in writing in this behalf by the Commissioner of Police or the District Magistrate, as the case may be."

But the sub-clauses deal with two different cases: In one case it is serving an order for closing, and in the other it is simply going to see what is going on. In the former case you send out a man with a specific order to serve, while in the latter it is one of the ordinary duties of investigation. It seems absurd that a Police officer should have to go to the Commissioner of Police or the Deputy Commissioner or the District Magistrate or the Subdivisional Officer, as the case may be, in order to get an order to go and see what is going on in the place. (A VOICE: What about private houses?) There again you are suspicious, but how many private houses are we going to notify? On the whole, I support the amendment moved by Maulvi Tamizuddin Khan. For supposing there is a *mela* at Tarakeswar: it seems rather absurd that the Sub-Inspector who has to find out what is going on there should have to come to Serampore to get the order from the Subdivisional Officer and then journey back to Tarakeswar to make his inquiry.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I oppose the amendment moved by Maulvi Tamizuddin Khan. I have already expressed my objections to certain clauses of the Bill, but I find that this amendment is going to be the most objectionable one. To entrust power to any Police officer without authority to enter any individual place of public amusement would lead to certain forms of harassment with which we are all more or less familiar. Well, if Government or the local authorities receive any information of a certain objectionable game being played in any notified place of public amusement, they can immediately depute somebody to inquire into the matter. We are told that certain games are to be stopped; so naturally it could be anticipated that the public opinion of that place would be against the playing of those games and the people of the locality would naturally report the existence of such games to the local authorities. It would then be time for the local authorities to authorise any Police officer to

take the matter in hand. If anything is done against the law, the Police, I believe, has the power to inquire into it. I am not quite sure about it, but my impression is that they can interfere in certain circumstances. However, to make a provision like that in the Bill would be going too far.

Mr. P. BANERJI: Sir, I oppose this amendment and, in doing so, I must ask the Hon'ble Member if it is a fact that whenever any power was given to the Police under any Act, it was given to some Police officer of some rank. In this case the mover suggests that any Police officer may enter a notified area It is something like giving the Police a blank cheque. The mover says "any Police officer," but we know all Police officers barring the high officials are hopelessly corrupt, and we have times without number brought it to the notice of the Hon'ble Member, and the Hon'ble Member, I think, is also moving in this direction to free them from corruption. But still I must say that corruption exists and exists in a very vicious form. What will be the case if any Police officer enters anywhere they like? It is a well-known fact that in some cases they have looted domestic property: that is what happens ordinarily in the country when the Police is concerned. I think that some of us may be ignorant of the actual situation in the country. (Cries of "No, no.") The fact remains that the Police here is not the same as those in Japan and England. So, we cannot give a blank cheque to the Police here. That being the case, I think such wide powers should not be given to the Police, as it will spell untold and unnecessary miseries to a lot of poor people. Sir, with these words I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I, with your permission, suggest a short-notice amendment, *viz.*, "any Police officer not below the rank of a Sub-Inspector in charge of a thana"? If this is inserted, I think the purpose which the mover has in view will be served. I do not think, Sir, that Maulvi Tamizuddin Khan will have any objection to amend his amendment in the way I have suggested. As a matter of fact, you cannot do without this power. It is not giving a blank cheque to the Police. When a Police officer visits a place, he does so to see whether there is any contravention of the law and whether the place is a notified place of public amusement. With all these limitations, I do not think you are giving any very great powers to the Police. At the same time, I think that a limitation like the one I have suggested, *viz.*, "not below the rank of a Sub-Inspector in charge of a thana," should be inserted. (A VOICE: Why in charge of a thana?)

Mr. PRESIDENT: Are you asking my permission to move this as a short-notice amendment?

Dr. NARESH CHANDRA SEN GUPTA: Yes, Sir.

Mr. PRESIDENT: I allow you to do so.

Babu KISHORI MOHAN CHAUDHURI: Sir, I support the short-notice amendment moved by Dr. Naresh Chandra Sen Gupta, which, I hope, will be acceptable to the mover of the original amendment. I hope that the Hon'ble Member in charge of the Bill will also accept it, as, I think, it will limit the power of Police officers to some extent.

The Hon'ble Sir WILLIAM PRENTICE: Sir, the real trouble is an administrative one. You may have a thana with only one Sub-Inspector who is engaged in a dacoity or burglary case, when a carnival is going on. In that case, is he not to be allowed to ask his Assistant Sub-Inspector to visit the carnival and see if there is any gambling going on. If it will bring peace, I am prepared to accept Dr. Naresh Chandra Sen Gupta's amendment in the following modified form, namely:—

"not below the rank of an Assistant Sub-Inspector of Police."

I will accept the amendment, if the mover has no objection to insert the words I have mentioned above.

The motion that after clause 6(*2*), the following be inserted, namely:—

"(*3*) Any Police officer not below the rank of an Assistant Sub-Inspector may enter any notified place of public amusement if he has reason to believe that such place is being kept open in contravention of the conditions of a licence granted under this Act"

was then put and agreed to.

The motion that clause 6, as amended, stand part of the Bill was then put and agreed to.

Clause 7.

The motion that clause 7 stand part of the Bill was put and agreed to.

Clause 8.

The motion that clause 8 stand part of the Bill was put and agreed to.

Clause 9.

Rai Sahib AKSHOY KUMAR SEN: Sir, I beg to move that for the proviso to clause 9, the following be substituted, namely:—

"Provided that against any order passed under this Act by a Commissioner of Police in Calcutta an appeal shall lie to the Chief Presidency Magistrate and against such order of a District Magistrate an appeal shall lie to the Court of Session:

Provided also that any order passed by a Deputy Commissioner of Police or Subdivisional Magistrate may be revised or modified by the Commissioner of Police or the District Magistrate, as the case may be."

Sir, I think there should be some provision for appeals against the orders of the Commissioner of Police to the Chief Presidency Magistrate and against the orders passed under this Act by District Magistrates to the Court of Sessions. There is a proviso under clause 9 to the effect that an order passed by a Deputy Commissioner of Police or by a Subdivisional Magistrate may be revised or modified as the case may be. Some sort of provision like this should be made under which there will be a power of appeal against an order passed by a District Magistrate or the Commissioner of Police to the Court of Sessions or to the Chief Presidency Magistrate. With these words I beg to commend my motion for the acceptance of the House.

The Hon'ble Sir WILLIAM PRENTICE: Sir, I am afraid that I cannot accept this amendment. It amounts to asking for a provision which will allow an appeal against an order passed by an executive officer to lie before a judicial officer which is entirely wrong.

The motion was then put and lost.

The motion that clause 9 stand part of the Bill was then put and agreed to.

Clause 10.

Mr. P. BANERJI: Sir, I beg to move that in clause 10(2)(*c*)(*i*), in lines 4 to 6, the words "and for securing the decent and orderly behaviour of all persons visiting the same" be omitted.

In the rule-making power the Select Committee have added the words "and for securing the decent and orderly behaviour of all persons visiting the same." I think this is simply absurd, because it is impossible for the manager or keeper of any public place of amusement as defined in this Bill, *viz.*, a cinema or a theatre, to be responsible for the behaviour of the persons who visit that place of amusement. It passes one's comprehension how it is possible for the manager

or the keeper of a public place of amusement to be responsible for the behaviour of the people visiting such place. In that view of the matter I place the amendment for the consideration of the House.

The Hon'ble Sir WILLIAM PRENTICE: Sir, Mr. P. Banerji has failed to realise that this provision was in the original Bill. Only the wording of the original Bill has been slightly altered. In the original Bill it ran thus:—

"Provision may be made by such conditions—

for securing the decent and orderly conduct of all persons visiting the notified place of public amusement:

* * * * *

The Select Committee have only modified it by adding something to meet a need which was pointed out by the District Magistrate of Howrah. I object to the amendment.

The motion was then put and lost.

The motion that clause 10 stand part of the Bill was then put and agreed to.

Clause 11.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that clause 11 be omitted.

Sir, I do think that the Civil Court or the Criminal Court should have the power of interfering in a matter like this.

Mr. NARENDRA KUMAR BASU: Unless there is an indemnity clause, it is impossible to work the Bill.

Babu KISHORI MOHAN CHAUDHURI: Sir, I think that criminal or civil proceeding may be taken in order to test whether any act done by a Police officer is done in good faith or not. I think there should be no finality with the action done by the persons who will be in charge of controlling these places of amusement. In my opinion

there should be some power of interference by the Civil or Criminal Court. With these words I commend my motion to the acceptance of the House.

The Hon'ble Sir WILLIAM PRENTICE: Sir, I regret that I must oppose this amendment. This is the ordinary indemnity clause. Further, under this Act you are giving power to the Police to close a place of public amusement under certain conditions. If the Police acting under this Act can be sued in the Civil Court for what they do, their position is hopeless.

The motion was then put and lost.

The motion that clause 11 stand part of the Bill was then put and agreed to.

Preamble.

The motion that the Preamble stand part of the Bill was put and agreed to.

The Hon'ble Sir WILLIAM PRENTICE: Sir, I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

NON-OFFICIAL MEMBER'S BILL.

The Bengal Embankment (Amendment) Bill, 1933.

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: Sir, I beg to present the Report of the Select Committee on the Bengal Embankment (Amendment) Bill, 1933.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that the Bill, as reported by the Select Committee, be taken into consideration.

Clause 1.

The motion that clause 1 stand part of the Bill was put and agreed to.

Clause 2.

The motion that clause 2 stand part of the Bill was put and agreed to.

Preamble.

The motion that the Preamble stand part of the Bill was put and agreed to.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that the Bill be passed.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Thursday, the 31st August, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 31st August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 109 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Collective fines.

*117. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state the names of the districts in which collective fines have been imposed in connection with the revolutionary movement?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement showing the amount imposed and the amount realised in each district?

(*c*) Will the Hon'ble Member be pleased to state whether the realised amount will be spent in suppressing the terrorist activities or in any charitable purpose, or will they be refunded as soon as the terrorist movement is suppressed?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) and (*b*) A statement is laid on the table.

(*c*) The proceeds of these fines have been credited to general revenues and Government have no intention of refunding them, or any part of them, to the persons from whom they have been collected. No proposals for the specific use of these receipts either in charitable or other ways have been submitted or considered save that under the provisions of section 15 (*5*) of the Bengal Suppression of Terrorist Outrages Act, 1932, certain sums out of the fine levied in Chittagong have been awarded as compensation to persons who suffered injury by the unlawful acts of the inhabitants of that area.

Statement referred to in the reply to starred question No. 117 (a) and (b), showing particulars of cases of collective fines imposed in the districts of Bengal in connection with the revolutionary movement.

Serial No.	District.	Name of village.	Section.	Amount imposed.	Amount realised.
				Rs.	Rs. a.
1	Chittagong	No. 71, Dhalghat, and No. 72, Uttar Samara.	26(1) of the Emergency Powers Ordinance, 1932 (Ordinance II of 1932).	5,000	4,880 8
2	Ditto ..	Chittagong Municipality, Paharitali Railway Colony, and the villages of Patya, Anwara, Kanungopara, Saroatali, Sakpura, Kattali and Gomdandi.	27(1) of the Special Powers Ordinance, 1932 (Ordinance X of 1932).	80,000	71,000 0 (approximately).
3	Ditto ..	Chuliapara in mauza No. 27, Bedagram, of police-station Boalkhali.	15(1) of the Bengal Suppression of Terrorist Outrages Act, 1932 (Ben. Act XII of 1932).	300	300 0

Hijli Jail.

***118. Dr. AMULYA RATAN GHOSE:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that the parcels, money-orders, books, and other articles sent by the relatives and friends of the prisoners are not accepted by the authorities of the Hijli Jail;

(*ii*) that the contention of the Hijli Jail authorities is that they are governed by some special rules other than those governing other jails?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, will the Hon'ble Member be pleased to state the authority for such special rules?

(*c*) If there is no such authority, what are the reasons for the action as stated in (*a*) (*i*)?

(*d*) Are the Government considering the desirability of informing the public as well as the friends and relatives of the prisoners of the Hijli Jail of the existence of such special rules to save them from unnecessary harassment and expenditure?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) No. I am satisfied that the ordinary jail rules are being followed.

(*ii*) No.

(*b*), (*c*) and (*d*) Do not arise.

Education of the depressed classes.

***119. Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there is any scheme under consideration of the department for giving special educational facilities to the boys and girls belonging to the depressed class of Hindus?

(*b*) If the answer to (*a*) is in the negative, what are the reasons therefor?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) In addition to the special facilities already afforded, a scheme for providing special scholarships for educationally backward classes has been under the consideration of the department for some time. Moreover, two schemes for giving additional grants for the education of Sonthals in the Burdwan Division and the district of Dinajpur have been approved by Government and await the allotment of funds to carry them out.

(*b*) Does not arise.

Presidency College.

***120. Maulvi AZIZUR RAHMAN:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) what reduction, if any, has been decided upon in the teaching and ministerial staff of the Presidency College, Calcutta, in accordance with the recommendations of the Bengal Retrenchment Committee, and what is the amount that will be saved by that step;

(*ii*) what is the number of ministerial officers in the office (proper) of the Principal, Presidency College, and how many of them are Mussalmans both in the upper and in the lower ranks;

(*iii*) how many letters per week are dictated to the Stenographer of the Presidency College, Calcutta, and whether it is proposed to retain the post of the Stenographer by giving him extra clerical work;

(*iv*) if so, why the extra clerical work could not be carried on by the Steward instead;

(*v*) whether the post of the Steward of the Presidency College, Calcutta, is included in the ministerial cadre;

(*vi*) whether it is at all considered necessary to retain the post of second clerk in view of the fact that no substitute was taken in his place during his long leave or deputation;

(*vii*) for how long the second clerk was on leave or on deputation recently; and

(*viii*) what is the total number of establishment and contingent menials in the Presidency College, Calcutta, and how many of them are non-Moslems in each rank? How many of them are going to be removed on the recommendations of the Retrenchment Committee, 1932, and how many Mussalmans will be among them?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) In the teaching staff:—2 B. E. S. Professorships and in the ministerial staff one post of Steward in the scale of Rs. 125—5—175 and a post of Roll clerk in the scale of Rs. 40—100 have been abolished as a result of the recommendations of the Retrenchment Committee. An average saving of Rs. 12,765 per annum in the teaching and of Rs. 2,670 per annum in the ministerial staff or a total of Rs. 15,435 per annum is expected.

(*ii*) Eight—one of whom is a Moslem; there is no distinction between the upper and lower ranks of ministerial officers in the Principal's office.

(*iii*) The Stenographer is the confidential clerk and amongst other duties deals with all confidential papers. About 20 letters per week are dictated to him in normal times, but he has ample confidential work and his time is fully occupied. It is proposed to retain the post.

(*iv*) Because the Retrenchment Committee definitely recommended the abolition of the post of Steward, and there is no question of extra clerical work being given to the Stenographer.

(*v*) It was.

(*vi*) It is considered necessary to retain the post of second clerk; for the greater part of the time to which the question refers the ministerial staff had not been reduced. With a full staff the Principal managed to make arrangements which are now impossible with the diminished staff.

(*vii*) (*a*) On leave from 23rd February, 1932 to 5th August, 1932;

(*b*) On deputation to act as Accountant successively from 6th August, 1932 to 26th September, 1932, 27th September, 1932 to 28th September, 1932, 29th September, 1932 to 3rd December, 1932, 4th December, 1932 to 17th February, 1933; and

(*c*) On leave successively from 18th February, 1933 to 25th March, 1933, 26th March, 1933 to 23rd April, 1933; and from 24th April, 1933, for three months.

(*viii*) Before the retrenchment the total number of establishment menials was 51, of whom 42 were non-Moslems, and of contingent menials 31, of whom 28 were non-Moslems. Three posts of establishment menials were abolished, of which one was held by a Hindu, one by a Muhammadan and one was vacant, held temporarily by a Muhammadan, who reverted to his substantive post as a contingent menial.

Of the contingent menials four posts have been abolished, all held by Hindus.

Leaving certificates from unrecognised schools.

*121. **Maulvi MUHAMMAD HOSSAIN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether leaving certificates from unrecognised schools are required at the time of getting oneself admitted to a recognised school?

(*b*) If the answer to (*a*) is in the negative, is the Hon'ble Minister aware—

(*i*) that this puts unrecognised schools to great disadvantage; and

(*ii*) that the boys leave unrecognised schools whenever they like without clearing their dues?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Leaving certificates are not required.

(*b*) (*i*) It is probable.

(*ii*) It is possible.

Maulvi MUHAMMAD HOSSAIN: Does the Hon'ble Minister know that this state of things exists?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is really a matter for the University by whom recognition is given to schools.

Maulvi MUHAMMAD HOSSAIN: What steps do the Government intend to take in the matter?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I do not think any action is required at the present time.

Maulvi ABDUL KARIM: Are not schools to be recognised by the Education Department too?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The University grants recognition to schools; the Education Department has nothing to do with it.

Mitford Hospital, Dacca.

*122. **Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government (Medical) Department be pleased to state whether it is a fact that there is no separate and proper clinical equipment for the treatment of venereal patients at the Mitford Hospital, Dacca?

(*b*) Is the Hon'ble Minister aware that venereal disease is on the increase in Dacca?

(*c*) If the answer to (*b*) is in the affirmative, are the Government considering the desirability of equipping the Mitford Hospital with a clinic for the treatment of venereal patients?

(*d*) Have the department tried to find out the root-cause of the spread of such disease in Dacca?

(*e*) Will the Hon'ble Minister be pleased to lay on the table a statement showing the number of venereal patients treated at the Mitford Hospital, Dacca, since 1929 up to July, 1933?

MINISTER in charge of LOCAL SELF-GOVERNMENT (MEDICAL) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) No: though there has been an increase in cases treated at the hospital.

(*c*) Does not arise.

(*d*) No special investigation is necessary. The cause is well-known.

(*e*) A statement is laid on the table.

Statement referred to in the reply to starred question No. 122 (e) of venereal disease treated at the Mitford Hospital, Dacca, from 1st January, 1929, to 31st July, 1933.

Year.	Gonorrhœa.	Syphilis.	Other disease of venereal origin.	Total.
1929.				
Indoor	9	21	6	1,295
Out-door	696	555	8	
1930.				
Indoor	16	26	..	977
Out-door	496	431	8	
1931.				
Indoor	31	27	1	1,728
Out-door	945	724	..	
1932.				
Indoor	15	8	6	1,704
Out-door	917	732	26	
1933 up to July, 1933.				
Indoor	1	5	3	958
Out-door	502	406	41	

Bengal (Rural) Primary Education Act.

***123. Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware of the deplorably low percentage of literate people in the province of Bengal?

(*b*) Do the Government intend enforcing the Bengal (Rural) Primary Education Act in the near future?

(*c*) What is the reason for the unusual delay in the matter?

(*d*) Do the Government intend introducing free primary education at least in some districts of the province in the near future, as expressed in course of speeches recently delivered by His Excellency the Governor, as well as by the Hon'ble Minister, while replying to addresses given to them by the district boards, municipalities and other bodies?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Minister be pleased to state whether any definite scheme has been prepared by the Government to hasten the enforcement of the Primary Education Act in those districts?

(*f*) If so, will the Hon'ble Minister be pleased to state definitely when the scheme is likely to be executed in those districts, and what districts the scheme would cover?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*), (*c*) and (*d*) Owing to the financial and economic condition of the province, Government are unable to bring the whole Act into force yet; how soon they will be able to do so depends upon an improvement in those conditions. They do, however, propose to apply a modified scheme in certain districts which have agreed to participate in it, but it is not possible to include free primary education in that scheme.

(*e*) and (*f*) Yes, the modified scheme will be inaugurated on 1st April, 1934, in the following districts:—

Mymensingh, Pabna, Birbhum, Chittagong, Dinajpur and probably Noakhali and Bogra.

Maulvi ABDUL KARIM: Can we have an idea why the free primary education scheme is not included in the modified scheme?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I would refer the hon'ble member to my speech on the education grant during the last budget session.

Maulvi ABDUL HAKIM: What is the percentage of illiterate people?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I ask for notice.

Maulvi ABDUL HAKIM: Can we have an idea about the modified scheme?

Mr. PRESIDENT: That question was put and answered.

Apprentices in the Bengal Government Press, Alipore.

*124. **Rai Bahadur GOKUL CHAND BURAL:** Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) how many paid apprentices there are in the Bengal Government Press at present;

(*ii*) the standard followed in appointing them;

(*iii*) the condition under which they are appointed;

(*iv*) the nature of work done by them;

(v) the amount of expenditure entailed on account of them; and

(vi) the income derived from their work up to date since 1920, year by year?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (i) 45.

(ii), (iii) and (iv) The member is referred to the "Rules for the appointment of apprentices in the Bengal Government Press, Alipore," a copy of which has been placed on the Library table.

(v) The expenditure on apprentices in 1932-33 amounted to Rs. 16,055-15.

(vi) It is impossible to calculate the income derived in any year from the work of apprentices.

Tenders from Muhammadan contractors for the construction of Prayer Hall at Islamia College.

*125. **Babu PROFULLA KUMAR GUHA:** (a) Is the Hon'ble Minister in charge of the Education Department aware that an advertisement over the signature of the Principal, Islamia College, appeared in the *Statesman* on 23rd July, 1933, in columns "Tenders invited" on page 5, inviting "tenders from Muhammadan contractors only for the construction of a Prayer Hall"?

(b) If the answer to (a) is in the affirmative, will the Hon'ble Minister be pleased to state whether it is the intention of the Government to introduce racial distinction in regard to contracts for civil works?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (a) Yes, but the word "only" did not appear in the advertisement.

(b) The question does not arise, as the cost is being met entirely from private subscriptions.

Maulvi ABDUL KARIM: Why has there been so much delay in constructing that mosque, while a gentleman has made a donation of Rs. 16,000.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Considering that the building is a mosque, is there anything inappropriate in advertising for only Moslem contractors?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have only stated what are the facts.

Revenue of Pargana Ailafulghuri in the district of Bakarganj.

*126. **Maulvi ABDUL HAKIM:** Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing—

(*i*) the total amount of annual revenue to be paid by the landlords for Pargana (Revenue Mahal) Ailafulghuri in the district of Bakarganj;

(*ii*) the total amount of annual rents to be realised by the landlords from their tenants and tenure-holders (if any) in the said pargana;

(*iii*) the total amount of annual road cess to be realised by the landlords from their tenants and tenure-holders (if any) in the said pargana; and

(*iv*) the total amount of annual road cess to be paid by the landlords for the said pargana?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i*) There is no pargana in the district of Bakarganj named Ailafulghuri. There is an estate named Aila Tearkhali and Fuljhuri. The annual revenue of the estate is Rs. 372-3-8.

(*ii*) Rs. 92,987-7-5 (according to the cess returns filed by the proprietors).

(*iii*) Rs. 21,683-14-9.

(*iv*) Rs. 24,578-2.

Maulvi ABDUL HAKIM: In which year were these returns submitted?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Maulvi ABDUL HAKIM: Could not the Hon'ble Member get the information from the settlement records?

The Hon'ble Sir PROVASH CHUNDER MITTER: We tried every means and this was the means found most suitable, but the settlement records of that district are fairly old.

Maulvi ABDUL HAKIM: In which year were the settlement operations of that district recorded?

The Hon'ble Sir PROVASH CHUNDER MITTER: It must have been about 20 years ago when Sir Nicholas Beatson-Bell was the Settlement Officer. I do not remember the exact date, but it was many years ago.

Dacca-Aricha Railway project.

*127. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state—

(*i*) the present position of the Dacca-Aricha Railway project; and

(*ii*) the reasons for the suspension of works already undertaken?

(*b*) Is the Hon'ble Member aware that the construction of the Railway though finally sanctioned is being delayed as a result of the agitation carried on by the I. G. N. & Ry. Co., Ltd., and R. S. N. Co., Ltd.?

(*c*) Has any report been submitted by the Committee appointed under the orders of the Government of Bengal, contained in their Local Self-Government resolution No. 2127P.H., dated the 26th July, 1929, as amended by notification No. 2956P.H., dated the 2nd November, 1929, to consider what measures will be necessary to safeguard the health and sanitation of the route of the proposed railway from Dacca to Aricha?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table a copy of the said report?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) and (*ii*) The project has been held up partly owing to financial stringency and partly because this Government have been engaged in considering the report of the Committee appointed in July, 1929, to consider questions of public health, waterways and headways in connection with this project.

(*b*) No.

(*c*) Yes.

(*d*) A copy of the report is placed on the Library table.

Rai Bahadur SATYENDRA KUMAR DAS: How long will Government take to consider the report of the Committee appointed in July, 1929?

The Hon'ble Mr. J. A. WOODHEAD: Not long, Sir.

*128. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether it is a fact that in connection with the Dacca-Aricha Railway project, the Joint Steamer Companies have raised strong objections with regard to the headways of bridges and width of channels between piers?

(*b*) Does the Hon'ble Member realise that to meet the said objections will so increase the cost of the scheme as to make it difficult for the Railway Administration to give effect to it?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Objections of the nature referred to have been received from the Joint Steamer Companies.

(*b*) This must necessarily depend on the extent to which these objections might be allowed to prevail. As no decision has as yet been reached on these objections the increase of cost cannot be estimated.

Construction of the Dacca-Aricha Railway.

*129. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state—

(*i*) whether the construction of the Dacca-Aricha Railway has been postponed on the ground of financial stringency; or

(*ii*) on the ground of public health and sanitation?

(*b*) If the delay is due to the examination of the public health question, will the Hon'ble Member be pleased to state when a final decision is likely to be arrived at by Government?

(*c*) Is it a fact that the question of public health and sanitation was thoroughly examined by the Government of Lord Ronaldshay and discussed in the Report submitted by the Railway Extension Committee appointed in 1917?

(*d*) Will the Hon'ble Member be pleased to lay on the table a copy of the Report of the said Committee?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) (*i*) and (*ii*) Financial stringency is partly responsible for the postponement of a final decision: but much time has been occupied in considering the report of a committee appointed to examine questions of public health, waterways and headways under bridges in connection with the proposed alignment of this Railway.

(*b*) It is expected that a decision will be arrived at shortly by this Government; this decision will be communicated to the Government of India.

(*c*) The committee in question was constituted in 1920 and submitted its report in 1921. Questions of public health and sanitation arising from it were considered by the Governments of Lord Ronaldshay and Lord Lytton.

(*d*) A copy of the report is placed on the Library table.

Convict Ambika Charan Chakravarty.

*130. **Mr. R. MAITI:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that Ambika Charan Chakravarty, a life convict in the Chittagong Armoury raid case, at present lodged in the Midnapore Central Jail, is a T. B. patient; and

(*ii*) that he has been kept confined in a cell in the said jail?

(*b*) If the answer to (*a*) is in the affirmative, have the Government considered the question that constant confinement in a cell may lead to fatal consequences?

(*c*) Are the Government considering the desirability of—

(*i*) allowing him to have a walk in the open air for an hour or so in the morning and in the evening within the jail compound; and

(*ii*) placing him in Division II?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) No. His health is good.

(*ii*) Yes, during the night, but he is free during the day like other Division II prisoners.

(*b*) Does not arise.

(*c*) (*i*) He has always been allowed outdoor exercise for half an hour both in the morning and in the evening.

(*ii*) He is in Division II.

Government services for the schedule castes of Bengal.

*131. **Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state whether the Government are considering the desirability of taking steps to reserve some percentage of all Government services for the schedule castes of Bengal?

(*b*) Is there any proposal before the Bengal Government to give effect to clauses 8 and 9 of the Poona Pact?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) and (*b*) No. Special provision

has been made for the recruitment of minority communities and backward classes to certain services and to some ministerial appointments. The question of extending these provisions is not as yet under consideration.

Scales of pay of services under the Government of Bengal.

***132. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state when the revised scales of pay of all the services under the control of the Government of Bengal will be published?

(*b*) Is the Hon'ble Member aware that the stoppage of increment in the pay of all officers drawing more than Rs. 80 who have been appointed after the 21st July, 1931, over and above the 15 per cent. cut, has caused hardship and has given rise to a feeling of discontentment among the officers concerned?

(*c*) What relief, if any, are the Government proposing to give these officers for delay in publishing the new scales of pay and giving effect to them?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Government are actively engaged in working out new scales, and hope to publish most, if not all, of them before the end of the year.

(*b*) No.

(*c*) Does not arise.

MUNINDRA DEB RAI MAHASAI: What has made the Hon'ble Member think that there is no discontent among their officers.

The Hon'ble Mr. J. A. WOODHEAD: It is very difficult to reply to such a question, Sir.

Disturbance at the detention camp, Suri.

***133. Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) whether any disturbance took place at the detention camp at Suri on or about the 12th July last;

(*ii*) whether it is a fact that several of the détenus were severely beaten by the sepoys;

(*iii*) whether any representations have been received by the Government from some of the détenus about the occurrence; and

(*iv*) whether several of the détenus who have been beaten are actually or suspected to be suffering from tuberculosis?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement of the occurrence including the nature of injuries by the détenus and action, if any, already taken by Government with regard to the matter?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) (*i*) Yes, in Suri Jail.

(*ii*) No. Two received slight injuries.

(*iii*) Yes.

(*iv*) Both the détenus are tubercular subjects, whose health is fairly good.

(*b*) A statement is laid on the table.

Statement referred to in the reply to clause (b) of starred question No. 133.

The fracas arose over a disciplinary measure by the warder on duty in ward No. IX, who objected to one of the détenus of that ward speaking to an ordinary convict. This irritated the détenus, altercation and abuse followed, the alarm was sounded and other warders entered the ward. A scuffle ensued which was stopped by the Jailor and the Deputy Jailor who entered the ward immediately afterwards. The Superintendent of the Jail who was ordered to make a full inquiry drew up proceedings against 5 warders and suspended them from the 13th July pending the result of the inquiry. On perusing the evidence and the Superintendent's report Government came to the conclusion that the détenus had suppressed some essential facts (e.g., their version did not explain the torn uniform of the warder on duty) and that while two of the détenus had undoubtedly been assaulted in the scuffle which took place between them and the warder on duty, there was not sufficient evidence to show that the other warders had taken part in the assault. As far as the warder on duty was concerned there was evidence to show that he had lost his temper under provocation and had struck the détenus. The Inspector-General of Prisons had already passed orders punishing that warder and transferring him to another jail at his own expense and releasing the other warders from suspension but transferring them elsewhere. Government saw no reason to interfere with or modify this order..

Of the three détenus in the ward two received slight injuries. In one case there was a slight swelling over the outer aspect of the left elbow joint, and two bruises over the outer aspect of the right arm, one below the other. In the second case there was a bruise over the lateral aspect of chest and a small swelling over the outer side of the right elbow joint.

Ballyganj Government High School.

***134. Mr. MUKUNDA BEHARY MULLICK:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table, a statement showing the names, designations, educational qualifications and University degrees, as well as Honours degrees, of each of the existing teachers on the staff of the Ballyganj Government High School?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) how many of the existing teachers of the said school read and took up Physical Science and Mathematics in their respective degree examinations;

(*ii*) how many of the teachers are qualified and competent to teach Physical Science, Mathematics (Compulsory and Additional) in the top four classes of the school?

(*c*) Is it a fact that there is none at present among the staff who can efficiently take up Mechanics classes of the school?

(*d*) If the answer to (*c*) above be in the negative, which of the existing teachers can efficiently manage the subject and what qualifying degree or degrees do they each hold?

(*e*) Is it a fact that since the transfer of Mr. Nagendra Nath Mazumdar, M.A., B.T., the late Head Master from the school, the Head Pandit has been taking up Mathematical classes, in the absence of teachers qualified and competent to teach the subjects?

(*f*) Is it not a fact that the Head Pandit is doing the Mathematical work of the school and the teaching of Sanskrit and Bengali has, therefore, been seriously interrupted?

(*g*) Is it not a fact that the chair of Mr. Mazumdar as the premier teacher of Mathematics and Mechanics has not been filled up even after the appointment and posting of his successor?

(*h*) If the reply to (*g*) be in the negative, who is the teacher now filling up the Mathematical chair of Mr. Mazumdar and with what qualifying degree?

(*i*) Is it in the contemplation of the Department to equip the school with and increase the efficiency of its staff by immediate posting of one or two M.Sc.'s Mixed or Applied Mathematics or at least one or two B.A.'s or B.Sc.'s with Honours in Mathematics?

(*j*) Is it not a fact that there are at present more Arts Graduate teachers on the staff of the Ballyganj Government High School than necessary?

(*k*) Is it a fact that some of the teachers have been on the staff ever since the foundation of the school? If so, why so?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) A statement is laid on the table.

(*b*) (*i*) One took Mathematics, Physics and Chemistry, one Mathematics and Botany and two Mathematics and Sanskrit.

(*ii*) Two teachers are qualified and competent to teach Physical Science and five teachers to teach Mathematics in the top four classes of the school.

(*c*) No, it is not a fact.

(*d*) Babu Gopeswar Mukherjee, whose qualifications are given in the statement.

(*e*) No. The Head Pandit, who took Mathematics in his degree examination, took a Mathematical class as a temporary measure after the transfer of Mr. Nagendra Nath Mazumdar, but the present Head Master, soon after joining the school, gave charge of the class to Babu Gopeswar Mukherjee.

(*f*) No.

(*g*) and (*h*) No. Babu Gopeswar Mukerjee, who is a B.Sc. with first class Honours in Mathematics, now teaches Mathematics and Mechanics in place of Mr. Mazumdar.

(*i*) The question of appointing a teacher of Mathematics in place of one of the Arts Graduates is under consideration.

(*j*) The member is referred to the answer to (*i*).

(*k*) Yes, because their work has been good and there has been no occasion for their transfer.

Statement referred to in the reply to clause (a) of starred question No. 134.

BALLYGUNGE GOVERNMENT HIGH SCHOOL.

STATEMENT SHOWING NAMES, DESIGNATIONS, EDUCATIONAL QUALIFICATIONS, ETC., OF THE OFFICERS.

Name.	Designation.	Date of appointment to the present post.	Educational qualifications.				
			Subjects taken in I.A.or I Sc.	Subjects taken in B.A. or B.Sc.	Subjects taken in M.A.	Subjects taken in Professional Degree.	Other educational qualifications.
1	2	3	4	5	6	7	8
1. Babu Jogesh Chandra Dutta.	Headmaster ..	6-1-1933	F.A.	B.A.— (1) Sanskrit. (2) Philosophy.	M.A. in History ..	B.T.— (1) English. (2) History. (3) Geography.	
2. Mr. Jyotirmoy Lahiri.	Assistant Headmaster.	3-1-1927	I.A.— (1) History. (2) Logic. (3) Chemistry. (4) Botany.	B.A. (Honours in English ; Class II)— (1) Politics. (2) Philosophy.	M.A. in English (Class II).	B.T. (1st Class, 1st)— (1) English. (2) History. (3) Geography. (4) Edl. Measurement.	Dip. Edn. (Lond.), M.R. S. T. (Lond.)
3. Babu Gopeswar Mukherjee.	Assistant Master	3-1-1927	I.Sc.— (1) Chemistry. (2) Physics. (3) Mathematics. (4) Physiology.	B.Sc. (Honours in Mathematics, Class I)— (1) Mathematics. (2) Chemistry. (3) Physics.	....	B.T.— (1) English. (2) Mathematics. (3) Elementary Science including Physical Geography.	
4. Maulvi Jasimuddin Ahmed.	Ditto ..	7-1-1927	I.A.— (1) Mathematics. (2) Logic. (3) Persian.	B.A — (1) Persian. (2) Philosophy.	M.A. in Persian (Class II).	B.T.— (1) Mathematics. (2) English. (3) Geography.	
5. Babu Brojendranath Mukherjee.	Ditto ..	3-1-1927	I.A.— (1) Mathematics. (2) Logic. (3) Sanskrit.	B.A. (Honours in English)— (1) Philosophy. (2) Sanskrit.	....	B.T. (1st Class, 1st)— (1) Mathematics. (2) English. (3) History.	

6.	Mr. Manoj Mohan Mukherjee.	Ditto ..	3-1-1927	I.Sc — (1) Mathematics (2) Chemistry. (3) Botany. (4) History (I.A.).	B.A.— (1) Mathematics. (2) Botany.	M. A. in English ..	B.T.— (1) Science, (2) English. (3) History.	
7.	Mr. Bibhudan Roy	Ditto ..	7-1-1927	I.A.— (1) History. (2) Logic. (3) Sanskrit.	B.A.— (1) History. (2) Sanskrit.	M.A. in History ..	B.T.— (1) History. (2) English. (3) Geography.	
8.	Babu Bidhubhusan Chatterjee.	Ditto ..	3-4-1929	I.A.— (1) History. (2) Logic. (3) Sanskrit.	B.A.— (1) History. (2) Economics.	M.A. in History (Class II)	B.T.— (1) English. (2) History. (3) Geography.	
9.	Maulvi Sufi Hossain Ali.	Ditto (offg.)	8-8-1932	I.A.— (1) History. (2) Mathematics. (3) Logic.	B.A. (Honours in English)— (1) History. (2) Economics.	.. .	B.T.— (1) English. (2) History. (3) Vernacular.	
10.	Babu Haripada Chakravarty.	Head Pandit ..	3-1-1927	I.A.— (1) Mathematics (2) Sanskrit. (3) Logic.	B.A. (Honours in Sanskrit)— (1) Mathematics. (2) Sanskrit	M.A. in Sanskrit (Class I) (Gold Medalist).	....	
11.	Maulvi A. M. Ahmed Hossain.	Head Maulvi (offg.).	2-2-1933	I.A.— (1) Arabic. (2) Logic. (3) Civics	B.A. (Honours in Arabic, Class II)— (1) Economics. (2) Arabic	....	....	(1) Fakhrul Muhddesin. (2) Passed Final Examination in Persian.
12.	Babu Kalipada Bhattacherjee.	Second Pandit ..	18-2-1929	I.A.— (1) Mathematics (2) Logic. (3) Sanskrit.	B.A (Honours in Sanskrit, Class I)— (1) Mathematics. (2) Sanskrit.	....	....	(1) Kavyatirtha. (2) Sastravisarad (Gold Medalist).
13.	Babu Ananga Mohan Sircar.	Manual Instructor.	11-1-1933	....	....	....	....	(1) Sub-overseer (1st Grade). (2) Passed A.T.
14.	Babu Ashutosh Roy Choudhury.	Drawing Master	22-4-1929	....	...	....	....	Passed Final Examination Government School of Arts, Calcutta

Girls' High School in Noakhali.

*135. **Babu HEM CHANDRA ROY CHOUDHURI:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware that there is no high English school for girls in the Noakhali town?

(*b*) If the answer to (*a*) is in the affirmative, do the Government intend establishing a high English school for girls?

(*c*) Is it a fact--

(*i*) that the Chairman of the district board applied to the Director of Public Instruction for permission to hold proposed class VII and class VIII for the girls in the morning in the buildings of the Middle English Girls' School and for accommodation of the mistresses of those classes in the hostel of the mistresses of the Middle English Girls' School;

(*ii*) that the Director of Public Instruction rejected the prayer on the plea of Government circular being against the proposal?

(*d*) Are the Government considering the desirability of revising the Director of Public Instruction's order?

(*e*) Is the Hon'ble Minister aware—

(*i*) that it will not be judicious to spend any amount for new construction there as the town is likely to be shifted soon; and

(*ii*) that the Managing Committee of the proposed school includes high officials of the district?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*) No.

(*c*) (*i*) In 1932 the Chairman of the district board submitted through the District Magistrate a scheme for turning the middle school into a high school. The scheme did not contemplate the holding of classes VII and VIII in the mornings, or the accommodation of the mistresses of those classes.

(*ii*) The reference to "Government circular" is not understood: the scheme was not proceeded with for two reasons, the first financial and the second because it was and is considered inadvisable to embark on any building scheme at Noakhali.

(*d*) Does not arise.

(*e*) (*i*) Yes.

(*ii*) There was no Managing Committee of the proposed school: the District Magistrate is the President of the existing Middle English School Committee.

Appointment of backward classes in the Bakarganj district.

*136. **Babu AMULYADHAN RAY:** (*a*) With reference to the reply to starred question No. 159, dated the 25th August, 1932, will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact—

(*i*) that Babus Suresh Chandra Nath and Kshitish Chandra Seal, belonging to the Jugi and Barber communities, respectively, do not come under the classification of backward classes for ministerial appointments, as adopted by the Government of Bengal; and

(*ii*) that the attention of the District Judge of Bakarganj was drawn to this fact after the delivery of the reply?

(*b*) Are the Government considering the desirability of making up the requisite number of appointments from the backward classes as contemplated in the memorandum dated the 28th April, 1931?

(*c*) Will the Hon'ble Member be pleased to state how many appointments have been made after the appointment of the said Kshitish Chandra Seal up to the present time?

(*d*) How many of them are from the backward class candidates?

(*e*) What are the names and castes of the backward class candidates appointed?

(*f*) Is it a fact that a list of 12 candidates from the backward classes was prepared by the previous District Judge?

(*g*) Is it a fact that in making recent appointments candidates other than backward class candidates have been appointed?

(*h*) Will the Hon'ble Member be pleased to state whether the incidents that happened regarding appointments of the backward classes were brought to the notice of the new District Judge?

(*i*) Was it brought to the notice of the present District Judge that a list of 12 candidates of the backward classes was prepared by his predecessor?

(*j*) What steps, if any, do the Government intend taking for the repeated failure on the part of the Recruiting authorities of the civil courts of Bakarganj to follow the said memorandum of the Appointment Department?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) Yes.

(*ii*) The District Judge was asked to report how Babus Suresh Chandra Nath and Kshitish Chandra Seal came to be shown as members of the *depressed* class.

(*b*) The matter is under consideration.

(*c*) Five.

(*d*) None.

(*e*) This does not arise.

(*f*) A list was prepared containing the names of 12 candidates including three persons from the "backward" classes.

(*g*) Yes.

(*h*) and (*i*) The District Judge had seen the list and interviewed one candidate from the backward classes, before he made his appointments.

(*j*) The District Judge will again be addressed with regard to this matter, but so long as the Civil Courts Act is not amended, the final selection rests with the District Judge.

Publication of sales in local newspapers.

***137. MUNINDRA DEB RAI MAHASAI:** (*a*) Has the attention of the Hon'ble Member in charge of the Revenue Department been drawn to G. L. No. 7, dated 22nd March, 1932, issued over the signature of the Registrar of the High Court of Judicature at Fort William in Bengal, Appellate Side, addressed to the District Judges, asking them to refer to section 163 (*3*) of the Bengal Tenancy Act, 1885, as amended by Bengal Act IV of 1928, and pointing out that the practice of ordering publication of sales in local newspapers, if in existence, is not authorised by law?

(*b*) Is the Hon'ble Member aware that the proposal to stop publication of the notice of rent sales in local newspapers has caused much uneasiness among the mortgagees, co-sharer landlords and persons interested in the sales?

(*c*) Is it not a fact that for a nominal charge, generally eight annas, a short note regarding properties for sale used to be published in local newspapers?

(*d*) Will the Hon'ble Member be pleased to state whether the question has been considered that, non-publication of sale notices in local newspapers will result in restricting the number of bidders and adversely affecting the price of the tenure or holding to be sold?

(*e*) Are the Government considering the desirability of giving publicity to sale notices by publishing them in local newspapers by introducing a Bill to amend section 163 (*3*) of the Bengal Tenancy Act, 1885, so as to make it obligatory on all courts to publish sale notices in local newspapers?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Yes.

(*b*) No.

(*c*) Under the Bengal Tenancy Act before amendment, read with the Civil Procedure Code, the Court had discretion to publish the proclamation in a local newspaper and could realise the costs of such publication as costs of the sale.

(*d*) The question has been considered.

(*e*) No. It is not considered that legislation is necessary nor that such publication should be obligatory.

MUNINDRA DEB RAI MAHASAI: With reference to (*c*), is it legal for the Courts to publish sale notices at the cost of the plaintiffs?

Mr. PRESIDENT: I do not allow that question. That is a matter for the Courts to decide.

Detenu Sital Prosad Chatterjee.

*138. **Dr. AMULYA RATAN GHOSE:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that Sital Prosad Chatterjee was a prisoner in the Hijli Jail (detention camp) and was released on the 18th January, 1933, after serving full term;

(*ii*) that the warder escorting him out of the jail up to a certain distance, dragged him again into the jail;

(*iii*) that he was handcuffed by a warder and was sent up to the thana; and

(*iv*) that he was detained in *hajat* for one month and was thereafter placed before the trying Magistrate who had let him off on 21st February, 1933, as there was no case against him?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) the reasons for the action of the warder;

(*ii*) what action, if any, has been taken against him;

(*iii*) the reasons why the Superintendent of the said jail detained a man who was no longer a prisoner under him; and

(*iv*) what action, if any, has been taken against the Superintendent?

(*c*) Has not the Hon'ble Member received frequent reports of ill-treatment of prisoners by warders?

(*d*) Are the Government considering the desirability of taking immediate steps to institute inquiries with a view to put a stop to the ill-treatment of the civil disobedience prisoners by jail warders?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) to (*iv*) The facts are that Sital Prosad Chatterjee was released on expiry of his sentence on the date mentioned and escorted by a warder for a mile according to usual practice, to prevent his communicating with other prisoners. After a little while he was found to have come back to the side of the jail and to be searching for something. On being challenged by a warder on duty he went away and was later caught signalling to a prisoner. A search disclosed a paper packet for which he was presumably looking. On these facts he was arrested and prosecuted for an offence under section 42 of the Prisons Act but was acquitted by the trying Magistrate.

(*b*) (*i*) to (*iv*) Do not arise.

(*c*) and (*d*) No.

Dr. AMULYA RATAN GHOSE: How was it possible for him to have a paper packet soon after he came out of the jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: The inference was that it was prearranged.

Babu JITENDRALAL BANNERJEE: Was the prisoner dragged back into the prison by the warder who had been escorting him?

The Hon'ble Sir PROVASH CHUNDER MITTER: No.

Dankuni khal.

***139. Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state the present condition of the Dankuni khal?

(*b*) Is the Hon'ble Member aware that due to the condition of the khal there is a considerable fall in crops and deterioration of agriculture in the lands which depend on the khal?

(*c*) Are the Government considering the desirability of taking immediate steps for the improvement of this khal?

(*d*) Will the Hon'ble Member be pleased to state why steps to improve the khal were not taken already?

(*e*) If the answer to (*c*) is in the affirmative, when is the work likely to be started?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Ghuznavi, of Dilduar): (*a*) The Dankuni drainage channel is silted to a varying degree throughout its length. The silting is worst in the middle reach.

(*b*) No blocking of drainage has yet occurred on account of this silting in the channel. There has, however, been damage to crops this year in an area of about 2 square miles in the Dankuni basin. This is mainly due to the heavy rainfall. The rainfall in June and July this year was 33 inches against 22·54 inches last year and 21·99 inches normally.

(*c*) Yes.

(*d*) No improvement was found necessary in the interval since the last silt clearance of a portion of the channel which was completed in 1927-28 at a cost of Rs. 13,478.

(*e*) It is proposed to take up the silt clearance of the middle reach next year.

Statutory Provincial Board for Secondary Education.

***140. Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) when Statutory Provincial Board for Secondary Education is likely to be established;

(*ii*) the reasons for the delay in establishing the same; and

(*iii*) whether the term of the Board of Intermediate and Secondary Education, Dacca, will be further extended beyond the extension of eight months already granted by Government in their resolution No. 2060-Edn., dated the 19th July, 1933, published in the *Calcutta Gazette* (Part I) of the 3rd August, 1933?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) Such a Board is not likely to be established in the near future.

(*ii*) The member is referred to my speech recorded on pages 555-558 of the Bengal Legislative Council Proceedings, Vol. XLI, No. 2.

(*iii*) Yes, in all probability.

Maulvi ABDUL KARIM: If it is a fact that the Statutory Board is not going to be established in the near future, why is extension after extension being granted?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: To accord with the corresponding financial year.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Minister be pleased to consider the question of maintaining a Secondary Education Board at Dacca quite independently of the scheme of primary education?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Until we have an All-Bengal Board, it is absolutely necessary to maintain a Secondary Board at Dacca.

Dr. NARESH CHANDRA SEN GUPTA: Could it not be arranged to have the work done by the Calcutta University by a slight amendment in the statute?

(No answer was given.)

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Auditors of co-operative societies.

46. Maulvi ABDUL HAKIM: (*a*) Will the Hon'ble Minister in charge of the Agriculture (Co-operative) Department be pleased to state whether Government contemplate making the posts of auditors of the department pensionable?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the Government have taken any steps towards this end?

(*c*) If so, when is this scheme likely to be given effect to?

MINISTER in charge of AGRICULTURE (CO-OPERATIVE) DEPARTMENT (the Hon'ble Khan Bahadur Nawab K. G. M. Farooqui): (*a*), (*b*) and (*c*) No. It has been decided that auditors of co-operative societies should subscribe to a special provident fund at the rate of one anna in the rupee, Government contribution being limited to

75 per cent. of the subscriptions and the rate of interest on the deposits being the same as that allowed on the General Provident Fund deposits. It has not yet been possible to implement this decision owing to financial stringency.

Fees paid to lawyers for conducting political cases.

47. Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing for the period from April, 1931, to December, 1932—

(*i*) the total cost incurred by Government in payment of fees to lawyers in political cases; and

(*ii*) what is the total amount of fees paid in political cases alone to Rai Bahadur N. N. Banerji, Public Prosecutor, Alipore?

The Hon'ble Sir WILLIAM PRENTICE: (*i*) and (*ii*) A statement is laid on the table as regards the fees paid in cases tried by Special Tribunals and Special Magistrates to which it is presumed the question applies.

Statement referred to in the reply to unstarred question No. 47, showing the fees paid to lawyers for conducting political cases for the period from April, 1931, to December, 1932.

Total cost incurred by Government in payment of fees to lawyers in cases tried by Special Tribunals and Special Magistrates—Rs. 69,166-9.

Total amount of fees paid to Rai Bahadur N. N. Banerji, Public Prosecutor, Alipore, in connection with cases tried by Special Tribunals and Special Magistrates—Rs. 20,462-6.

Mr. P. N. GUHA: Was this Rs. 20,000 and odd paid to Rai Bahadur N. N. Banerji for appearing in cases in Alipore?

The Hon'ble Sir WILLIAM PRENTICE: No. This sum was paid to Rai Bahadur N. N. Banerji for appearing in cases all over the province.

Mr. P. N. GUHA: Is it not a fact that Government retains the services of a Public Prosecutor in each district?

The Hon'ble Sir WILLIAM PRENTICE: Government have a Public Prosecutor in each district.

Mr. P. N. GUHA: Why then was the Rai Bahadur sent from district to district in spite of that fact?

The Hon'ble Sir WILLIAM PRENTICE: Government select the most suitable Public Prosecutor in each case.

Mr. P. N. CUHA: Does it necessarily follow that he is the best man.

(No answer was given.)

Talkie Houses, Cinemas and Theatres.

48. Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing—

(*i*) the names and locations of Talkie Houses, Cinemas and Theatres in Calcutta built since 1924;

(*ii*) whether the statutory rules and regulations in respect of public health have in each case been complied with (to be shown in detail);

(*iii*) if there is any non-compliance or violation or relaxation of the rules—

(*a*) the extent of the violations and how far these violations affect the public health; and

(*b*) what steps, if any, the Government propose taking in the interest of public health, to rectify such violation and defects?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*i*) A statement is laid on the table.

(*ii*) There are no statutory rules. There are bye-laws for proper ventilation, prevention of overcrowding, etc. The Corporation reports that these houses are regularly inspected and steps are taken to see that requisitions of the Health Department are complied with.

(*iii*) Does not arise.

Statement referred to in the reply to unstarred question No. 48. (i), showing names and locations of Theatres, Talkie Houses and Cinemas built since 1924.

THEATRES.

1. Cheap Theatre, 157-A, Dhurrumtala Street.
2. Natya Niketan, 2, Raja Raj Kissen Street.
3. Ranga Mahal, 85, Upper Chitpore Road.
4. Rangmahal, 76/1, Cornwallis Street.

TALKIE HOUSES.

1. Chhabighar, 10, Harrison Road.
2. Chitra, 83, Cornwallis Street.
3. City Talkies, 12/1, Wellesley Street.
4. Crown Cinema, 138/1, Cornwallis Street.
5. Ganesh Talkie, 373/C, Upper Chitpore Road.
6. Entally Talkie, 2/3 and 2/4, South Road, Entally.
7. Madan Theatre and Variety, 136, Surendra Nath Banerjee Road.
8. National Bioscope, 12/1, Watgunge Street.
9. New Cinema, 171, Dhurrumtala Street.
10. New Empire, 1, Humayan Place.
11. Pearl Cinema, 32-D, Dhurrumtala Street.
12. Plaza, 19, Chowringhee Road.
13. Regal, 4, Surendra Nath Banerjee Road.
14. Rupabani, 76/3, Cornwallis Street.

CINEMAS.

1. Chinese Theatre, 12/1, Chittaranjan Avenue.
2. Cinema House, 190, Lower Circular Road.
3. Jupiter Cinema, 13/1, Adaita Charan Mullick Lane.
4. Lucky Cinema, 7, Gas Street.
5. New Royal Cinema, 5-B, Maharani Sarnamoyee Road.
6. Park Show House, 3/5, New Park Street.
7. P. Son's Cinema, 50, Paharpore Road.
8. Show House, 182, Upper Circular Road.
9. Show Palace, 2, Krishna Lal Das Road, Cossipur.

Rai Bahadur Dr. HARIDHAN DUTT: Are not building rules and regulations statutory rules?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Rai Bahadur Dr. HARIDHAN DUTT: Are they not applicable to talkie houses and places of public amusement?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly.

Rai Bahadur Dr. HARIDHAN DUTT: How then does the Hon'ble Minister say in answer that there are no statutory rules?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No statutory rules for talkie houses specially.

Rai Bahadur Dr. HARIDHAN DUTT: Might I point out that these rules are applicable to talkie houses so far as they are buildings?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, but in this matter we have to depend entirely on the Report of the Calcutta Corporation.

Dr. NARESH CHANDRA SEN GUPTA: Have the Government been paid to put in the names in the statement?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not follow the question.

Mr. K. C. RAY CHOWDHURY: Is it not a fact that the Corporation of Calcutta is the proper authority to deal with this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is what I have been saying all this time.

Process-servers of Howrah and Alipore Sadar.

49. Babu KHETTER MOHAN RAY: Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) how many miles per day on an average are travelled by a process-server at the Howrah Sadar and at the Alipore Sadar now;

(*ii*) how many processes per day on an average are served by a process-server of the Howrah Sadar and the Alipore Sadar at present; and

(*iii*) the number of miles and the number of processes each process-server is to show in his diary under the present rules of the Hon'ble High Court?

The Hon'ble Sir WILLIAM PRENTICE: (*i*) Howrah Sadar—14 miles. Alipore Sadar—9·7 miles.

(*ii*) Howrah Sadar—3 processes. Alipore Sadar—1·4 processes.

(*iii*) There is no mileage limit. 500 is the minimum number of original processes required to be served by each process-server in a year.

Registration office at Kutubdia in Chittagong.

50. Haji BADI AHMED CHOWDHURY: Will the Hon'ble Minister in charge of the Education (Registration) Department be pleased to state—

(*i*) how many bonds in which delivery of paddy is stipulated have been registered from April to the 15th July, 1933, in the Kutubdia Registration Office;

(*ii*) what was the maximum and minimum rate of price of paddy for hundred *aris* calculated in the said bonds;

(*iii*) what is the average price of a maund of paddy in Chittagong calculated on the basis of 80 tolas equal to a seer?

MINISTER in charge of EDUCATION (REGISTRATION) DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*i*) 52.

(*ii*) Rs. 20 and Rs. 8 respectively.

(*iii*) Re. 1-8.

Operation of the Bengal Suppression of Immoral Traffic Act, 1933.

51. Mr. J. N. BASU: (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether the Government are considering the question as to whether the Bengal Suppression of Immoral Traffic Act, 1933, should be put in operation not only within the municipal limits of Calcutta, but also in the districts of the 24-Parganas, Midnapore and Burdwan?

(*b*) Have the Government considered as to which societies should be entrusted with the custody of rescued girls, and the performance of other functions required of such institutions under the provisions of the Bengal Suppression of Immoral Traffic Act, 1933?

(*c*) Have the Government considered the question of appointing visitors to carry out the work of inspection under the Bengal Suppression of Immoral Traffic Act, 1933?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) Yes.

(*b*) and (*c*) These matters are under consideration of Government.

Maulvi TAMIZUDDIN KHAN: Is the question of putting the Act into operation in the districts of the 24-Parganas, Midnapore and Burdwan being considered?

The Hon'ble Sir WILLIAM PRENTICE: No. We have not considered it so far.

Maulvi TAMIZUDDIN KHAN: Why?

The Hon'ble Sir WILLIAM PRENTICE: We proposed to start in the Presidency and Burdwan Divisions.

Political prisoners of Bengal in the Andamans.

52. Mr. P. BANERJI: (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state the present condition of the political prisoners sent away from Bengal to the Andamans?

(*b*) Is it a fact that the grievances for which the prisoners went on hunger-strike in May last have not yet been redressed?

(*c*) Will the Hon'ble Member be pleased to state what are those grievances?

(*d*) Did those grievances arise out of non-compliance with the rules of the Jail Code?

(*e*) If the answer to (*d*) is in the negative, what are the reasons?

(*f*) Is the Hon'ble Member aware of a strong public feeling that exists against sending the Bengalee prisoners to the Andamans and particularly owing to the death of two Bengalee prisoners there?

(*g*) Is the Hon'ble Member aware that owing to the deaths referred to above the public have become apprehensive of other prisoners' lives in the Andamans?

(*h*) What steps have been taken by the Government of Bengal to ensure proper protection of the lives of those prisoners in future?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) I have no official information.

(*b*) to (*e*) I can give no information on these matters which are primarily the concern of the Government of India, but the member has, doubtless, seen the replies given by the Home Member to similar questions in the Assembly which were published in the newspapers a few days back.

(*f*) and (*g*) I am aware that some feeling was worked up on this question as a result of the death of two Bengalee prisoners in the Andamans.

(*h*) There has never been any question of the lives of these prisoners being in danger.

Mr. NARENDRA KUMAR BASU: With reference to (*f*) and (*g*), who was it that worked up the feeling on the question of the two Bengali prisoners' death in the Andamans?

The Hon'ble Sir PROVASH CHUNDER MITTER: I would refer the hon'ble member to my answer, and I have nothing further to add. My hon'ble friend knows as much as anybody else about it. I have no special knowledge.

Mr. NARENDRA KUMAR BASU: Has the Hon'ble Member any general knowledge as to the feeling being worked up by anyone?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question.

Mr. NARENDRA KUMAR BASU: Is it not a fact that the death of these two prisoners in the Andamans evoked a considerable sense of discomfort and roused a considerable feeling amongst the Bengalis in Bengal and that no working up was necessary?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is a matter of opinion. I am prepared to say that amongst a certain section, it might have that result.

Mr. SHANTI SHEKHARESWAR RAY: Is it the intention of Government to send another batch of political prisoners to the Andamans on the 3rd of September, in spite of this feeling in the country?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Mr. SYAMAPROSAD MOOKERJEE: Has the death of these two prisoners evoked any feeling in the mind of the Hon'ble Member?

Mr. PRESIDENT: I do not allow that question.

Mr. SHANTI SHEKHARESWAR RAY: In view of this feeling, are the Government considering the question of bringing back the prisoners to Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add. I have already on several occasions mentioned the position of the Government of Bengal in this matter.

Babu JITENDRALAL BANNERJEE: With reference to (*a*), has the Hon'ble Member any unofficial information to give?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am not prepared to give any unofficial information.

Babu JITENDRALAL BANNERJEE: Then, what is the meaning of "official information."

The Hon'ble Sir PROVASH CHUNDER MITTER: Because that is a fact. I have no information which can be characterised as unofficial.

Dr. NARESH CHANDRA SEN GUPTA: With reference to (*h*), how has the Hon'ble Member got the information that their healths and lives are not in danger?

The Hon'ble Sir PROVASH CHUNDER MITTER: From information received from the Andamans authorities.

Mr. SHANTI SHEKHARESWAR RAY: Is it for the Government of Bengal or for the Government of India to decide whether these prisoners are to be brought back to Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question many times. I have nothing further to add.

Cess from the Khas Mahal and Court of Wards estates of Bengal.

53. Babu SUK LAL NAG: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) what amount of cess was due up to 30th June, 1933, from the Khas Mahal and Court of Wards estates of Bengal; and

(*ii*) the reason why the cess was not paid?

(*b*) Will the Hon'ble Member be pleased to state whether any interest will be paid for the arrears? If not, why not?

(*c*) Is it a fact that the district boards receive from the Government the actual amount of cess realised from the tenants of the Khas Mahal and Court of Wards estates?

(*d*) Is it also a fact that the private landlords are made to pay the whole amount due irrespective of what the tenants pay them?

(*e*) If the answers to (*c*) and (*d*) are in the affirmative, what are the reasons for the differential treatment?

(*f*) Are the Government contemplating extending to private landlords the same privileges and benefits as are enjoyed by the Khas Mahal and Court of Wards estates under the Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Nothing was due by Government from the Khas Mahals. The arrears of cess due from Court of Wards estates on 14th April, 1933, were Rs. 6,37,009. Figures up to 30th June, 1933, are not available.

(*ii*) Owing to bad collections.

(*b*) Interest will be paid by the Wards estates if it is not remitted.

(*c*) At present district boards will not receive from Government more than the amount actually realised from tenants in Khas Mahals, but the Wards estates are liable to pay cess irrespective of the amount actually collected from tenants.

(*d*) They are liable to pay, but many of them have not paid the full amount due.

(*e*) Government, who have made over the public works cess and contribute separately to the finances of the district boards, are under section 7 of the Cess Act not bound to pay to the district boards even in the case of road cess any amount greater than is paid to the Collector by persons liable to pay the same.

Wards estates and other private estates are liable to pay the cess due from them irrespective of collections, but the Collector is not bound to pay to the district board more than he receives from them.

(*f*) In view of the answer to (*e*), Government do not consider that the question of extending benefits and privileges arises. Further, under the law Khas Mahals and Court of Wards estates are not on the same footing.

Bengal Patni Taluks Regulation (Amendment) Act, 1933.

54. MUNINDRA DEB RAI MAHASAI: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware—

(*i*) that the Bengal Patni Taluks Regulation (Amendment) Act, 1933 (Bengal Act IV of 1933), received the assent of the Governor-General on the 2nd May last but was not published earlier than the 18th May; and

(*ii*) that the 15th May was one of the dates for such sale throughout Bengal?

(*b*) If the answer to (*a*) is in the affirmative, what are the reasons for not publishing the Act before the 15th May?

(*c*) Is the Hon'ble Member aware that the publication on the 18th May has been taken by some Collectors or revenue authorities to mean that it was not intended to apply to sales under the Regulation which took place on the 15th May last?

(*d*) Are the Government considering the desirability of taking the opinion of the Advocate-General of Bengal or any other competent authority as to whether the added section 14A of the Regulation will apply to sales held on the 15th May which had not become final by reason of the entire purchase money not having been deposited before the 18th May?

(*e*) If the opinion referred to in (*c*) be against such applicability, are the Government considering the desirability of introducing legislation applying the Act to all sales which had not become final on the 18th May?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) It received the assent of the Governor-General on 2nd May.

(*ii*) Yes.

(*b*) There was no avoidable delay in the publication of the Act as the Governor-General's assent, though signified on the 2nd May, was not received by this Government before the 8th May, 1933.

(*c*) Government are not aware what view has been taken by the Collectors or other revenue authorities.

(*d*) No.

(*e*) No.

MUNINDRA DEB RAI MAHASAI: Is the Hon'ble Member prepared to make inquiries from the Collectors with a view to give relief, if possible?

The Hon'ble Sir PROVASH CHUNDER MITTER: There is no question of relief. It is a matter for the law courts.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Calcutta Municipal (Amendment) Bill, 1933.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to present the Report of the Select Committee on the Calcutta Municipal (Amendment) Bill, 1933.

I also beg to move that the said Bill, as reported by the Select Committee, be taken into consideration.

In moving this motion I do not propose to go into the details of the changes recommended by the Select Committee in the provisions of the Bill. I shall only mention some of the most important changes that

have been recomended by them. The first change is that the disqualification with reference to Corporation appointments should be permanent with regard to persons convicted of offences against the State. With regard to other offences, it should be limited to 6 years after the release of the person; that is, after 5 years he will cease to be disqualified. Both with regard to appointments as well as with regard to the provisions about surcharge, the retrospective clause has been deleted, and Government have accepted that; so that this provision will not apply from 31st March, 1933, the date of the introduction of the Bill in this House, as was originally provided in the Bill, but from the date of the passing of this Bill by the House.

The next change is that power has been given to the Local Government to exempt any class of employees of the Corporation with reference to any class of offences. This is necessary to exempt the menial and the labour staff of the Corporation, many of whom might be convicted of offences of a non-political character.

The bar about Corporation's grant to primary schools for the training of boys and girls has been extended to all classes of institutions to which it might make grants; and this has been done with a view to preventing the evasion of the provision in this Bill, so that the appointment of persons who are disqualified from being appointed to Corporation service may not be encouraged by making grants to those institutions. These are the principal changes, and I will not touch any of the minor changes recommended by the Select Committee.

I do not propose to answer in detail the criticisms that have been levelled against the statement made by me in moving the reference of the Bill to the Select Committee, because I think it is quite unnecessary to do so. In spite of all attempts made to cloud the issue, it is clear that the Corporation have employed either as teachers or as officers in other departments under them, persons who should never have been employed by a body created by statute. The Corporation on their own admission have given leave to teachers who were convicted of civil disobedience and other anti-Government activities. That is a position, I repeat, in which Government can never acquiesce and that is what has led the Government to introduce these clauses about appointment in the Bill. The difficulties of defining this disqualification are obvious, and naturally the clauses in the Bill cover a wider range than is actually necessary for the purpose. But it is never the intention of the Government that persons convicted of offences of a character other than political should ever suffer any disqualification. I stated in my speech in moving the reference of the Bill to the Select Committee that it is far from Government's intention to be vindictive. The whole measure is merely preventive, and in keeping with this spirit Government agreed to delete the retrospective provisions of the Bill so that persons who are suffering from the disqualifications mentioned in the Bill, if they are already

appointed to Corporation services, will continue to be there if they are not again convicted. So also with regard to the audit sections in the Bill.

There has been considerable controversy over some of the facts mentioned by me, but I venture to reassert that all the facts I stated are correct, that sections 14 and 97 of the Act have been evaded and that the audit reports have been ignored, that works have been taken up without execution of contract by contractors; these are matters of record. So also the Corporation has lost its revenue because of non-realisation of rates or non-realisation of the motor vehicles tax. They appear in the audit reports year after year, and they are undoubtedly beyond any controversy.

Sir, attempts have been made to quibble facts, but however desperately they were made, they cannot exonerate the Corporation of the charges made against them, because they have not been answered and because they are unanswerable, nor did they reflect any credit upon the people who made such attempts. It has been said that the affairs of the Corporation will become impossible if this Bill is passed, because auditors would raise objection at every step and would surcharge councillors and aldermen at the instance of the Local Government, because the Local Government would like to prosecute these councillors and aldermen on account of their political views or would like to turn down a particular scheme because they could not approve of it on political grounds.

Sir, the auditors under the Municipal Act are no other than the Accountant-General of Bengal, and the Examiner of Local Accounts, and persons who make such allegations and insinuations do so in complete oblivion of the position occupied by these responsible officers. Moreover, the Local Government have no control over the Examiner of Local Accounts, or over the Accountant-General, Bengal. They are officers under the Government of India.

Then, Sir, it has been seriously alleged that this Bill, if passed into law, would take away the civic rights conferred on the citizens of Calcutta by the Act of 1923. Sir, I think that those who have read this Bill are quite aware by this time that this Bill does not propose any such thing at all. The Bill only proposes that persons who have been convicted of offences against the State should not be appointed to service under the Corporation without the sanction of the Local Government, or unless the disability is removed, on their own application or by Government on their own motion. Then there is the provision about surcharge. If the Corporation loses money because of the laches of its officers or because some councillors or aldermen in power for the time being lightly sanction certain schemes, the Corporation should have the right to get itself reimbursed.

Mr. B. C. CHATTERJEE: What about the dredgers of the Irrigation Department? Should not Government be surcharged first of all?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is an old story, if I may remind Mr. Chatterjee.

Mr. B. C. CHATTERJEE: But then that is an abiding grievance with us.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This Bill, therefore, provides that the right should be given to the Corporation to check the vagaries of councillors and aldermen in power for the time being—vagaries, yes. This power is not taken by the Local Government, but it is given to the Corporation to apply it through an outside agency, namely, the Accountant-General, Bengal, and the Examiner of Local Accounts, over whom, I may repeat again, the Local Government have absolutely no control.

It may be that for the time being an atmosphere of suspicion has been brought about between the Government and the Corporation. But if so, it has been brought about by persons whose interest it is to exploit the resources of the Calcutta Corporation for their own political ends. Sir, Government are anxious to clear this atmosphere and Government will help to clear this atmosphere as soon as possible.

Government gave ample opportunity to the Corporation to mend matters by writing three letters to them about a year ago. If they had tried to mend matters, it would not have been necessary for the Government to bring this Bill before the House, which they have done with the greatest reluctance. I am confident, Sir, that when the present controversy is over, everyone will be in a position to review the question in its proper perspective and everyone will admit that this measure has been brought forward not a day too early, and that Government are perfectly justified in placing this measure before the Legislature.

Mr. PRESIDENT: There are three amendments for recommitting the Bill to the Select Committee. I shall take them at this stage and then we shall have one discussion on all the motions.

Mr. P. BANERJI: I beg to move by way of amendment that the Bill be recommitted.

In doing so, I submit that this is a case where a party is going to be executed *ex parte*. This *ex parte* decision has been given because, as the Minister in his speech in the beginning said, the Corporation

would not reply to his letters. But at the same time in his speech the Hon'ble Minister admitted that when the Corporation wrote to the Government they said that they were prepared to prove that the allegations or rather the charges made against the Corporation were unwarranted and unnecessary. This made the Hon'ble Minister indignant and, therefore, he rejected the idea of a conference with the Corporation. Now, Sir, the charges that were made against the Corporation in connection with this Bill were refuted point by point by the members of the Corporation and the Corporation's replies were before the public through the medium of newspapers. The Hon'ble Minister also said in answer to a pertinent question put by Mr. Narendra Kumar Basu in the course of his speech that Government had certain information regarding the employment by the Corporation of convicted persons, but afterwards it came to our knowledge that those persons were not at all convicted of offences mentioned by the Hon'ble Minister. In this way if we now scrutinise all that has been said by the Hon'ble Minister, every one of the charges made by him could be refuted, if only the Hon'ble Minister will give an opportunity to the Corporation. But that opportunity has not been given. Only a letter was written from the Select Committee asking the Corporation to give explanation on certain points. The Corporation's attitude was that there was no necessity for such a Bill and the Corporation could prove that. From all this, and even from the speech of the Hon'ble Minister to-day, the only inference that we can draw is that the Hon'ble Minister perhaps has not brought this Bill of his own motion: otherwise, what is there to prevent a popular Minister from consulting a popular body. I find absolutely no reason. The Hon'ble Minister has studied the situation, and he has placed before the House things from one standpoint, while I beg to submit the case from altogether a different standpoint. It is needless for me to refute the charges made by the Minister point by point, but I will only refer to two things. One of the charges he had practically avoided. He has said that there have been criticisms regarding the working of the Corporation and one of those criticisms was with regard to contracts. In this connection I would refer to a book which has been supplied to us to-day, namely, "Liberty and Licence: Study of the Calcutta Municipal Bill." This is, perhaps, a publication of the Government. In this publication we find that certain irregularities have been found in respect of certain contracts. One of them relates to the execution of the agreement of Messrs. Bando and Co. In this connection, I wish to submit that this was a contract which was originally given to an English firm and the contract was for 14 lakhs of rupees for laying out pipes in Calcutta—those big pipes which have been recently laid out in the different streets of Calcutta. But subsequently that firm refused to execute the order and wanted more money. Then fresh tenders were called and two firms, namely, Bando and Co., and another Anglo-Indian firm—Bereck and Comens—were given this contract. Sir, you would

be surprised that this work has now been completed at a cost of Rs. 7 lakhs, of which work worth five lakhs was executed by Messrs. Bando and Co., and work worth two lakhs by the other firm. In this connection, Sir, it has been said that the Corporation or rather the Chief Executive Officer paid without authority Rs. 1,22,672. Sir, the fact is that this contract was accepted by the Corporation, as stated in this report, on the 26th September, 1930. Now, this was sent to Government for sanction. It was sanctioned by Government on the 20th January, 1931. Thus you will see what a long time was taken by Government to give sanction to this scheme. Then this again came before the Corporation and the drafting and everything was ready and approved by an eminent firm in England and all these were sent to Government. Government took about six months to approve of this and to send it back. The Corporation wrote letter after letter, and Government on the 25th May sent it to the Corporation and in three days' time Messrs. Bando and Co. executed the contract. But according to the Moore scheme it is a well-known fact that any contract when sanctioned by Government can be immediately executed and work begun on it, and the rule is that the contractor can take money in advance after inspection by the Executive Engineer and this general rule has been drafted by a big firm of solicitors in England and those rules were all approved by Government, and you will be surprised this firm of consulting engineers, I mean Messrs. Moore and Bateman, were paid three lakhs of rupees for the scheme of laying out 20,000 feet of pipes in Calcutta, while seven lakhs were spent after taking tender for the second time. All this was due neither to the fault of the contractors nor of the Corporation. So from the result you will find that out of the original contract of fourteen lakhs the present administration of the Corporation saved seven lakhs and now the Hon'ble Minister finds fault with the Corporation for spending Rs. 1,24,000 which, in fact, Government sanctioned. The Corporation has done nothing wrong, but perhaps it is being condemned because the contracts were not given to European firms which used to make a lot of money out of these contracts previously. I challenge the Hon'ble Minister to show that there has been waste of money. This is in regard to one contract only; if you go into the details of other contracts, you will find that nowadays Indians are supplying materials to the Corporation at much cheaper rates. The contracts which at one time went to the foreign firms are now being executed by the Indians at a very cheap rate. That is so far as contracts and contractors are concerned.

Now, Sir, the next thing I wish to refer to is the electrical scheme. As regards this scheme, the Hon'ble Minister in reply to a question put by my friend Mr. Syamaprosad Mookerjee said that Government had no data and that was the excuse put forward by him after two years. Now, if we go into the details, we find that that scheme was approved by the Corporation and sent to Government in 1930, and although letter

after letter and reminders were sent by the Corporation, Government would not do anything in the matter. Although every possible detail was given about the scheme in the Corporation's letter which contained 182 pages, still after two years Government say that sufficient data have not been given. The Hon'ble Minister at the same time admitted in his reply to the question referred to, that the Electrical Adviser to Government was consulted unofficially. May I inquire how is it that the Electrical Adviser who is a paid officer of Government was consulted by the Hon'ble Minister unofficially. I do not see any point in his consulting a Government official unofficially. It was before him for a long time; he consulted the Electrical Adviser and also some officials of the Corporation and could not find any flaw in it, because it was drawn up by a competent Engineer. But the point is not that: the point is that if the scheme is passed and given effect to, it will hard hit the monopolist company—I mean the Calcutta Electric Supply Corporation.

Now, Sir, what is the main scheme of Dr. B. N. Dey? The Corporation will not have to spend a farthing on it now. The sum of Rs. 22 lakhs that is to be spent on it will be met by the contractors who would accept payment by instalments spread over 5 years. At the same time, the Corporation is paying to the Calcutta Electric Supply Corporation Rs. 12½ lakhs annually, and this will be reduced every year until it is entirely stopped. Sir, it is gratifying to note that this wonderful Engineer has worked a miracle in Tallah and Palmer Bridge. The Electric Supply Corporation will by this scheme be deprived of Rs. 2 lakhs which they used to get for these places and the Corporation has thus been able to save Rs. 2 lakhs, and if the new scheme is sanctioned, they will be able to save a further sum of Rs. 12½ lakhs. The income of the Corporation is Rs. 3 crores, while the income of the Electric Supply Corporation is over Rs. 3 crores. The cost of generating electricity is ·14 anna per unit, while the company charges Government 1·8 annas per unit and we poor people have to pay 4 annas 6 pies per unit. From this you will realise that the Government is enjoying undue preference under the Electricity Act and huge profit the Company is making. Now if this Rs. 12½ lakhs goes away from the Calcutta Electric Supply Corporation, the company of Lord Meston will suffer, and so this must not be allowed. And if the people find that the rate of the Corporation is much cheaper than that of the monopolist company, what will be the position? The position will be that everyone will try to minimise their consumption and make a prepaganda against the Electric Supply Corporation. Therefore, Sir, my view is that if the Corporation to-day does not press for it and if Mr. Dey is dismissed or dies suddenly of cholera, I think this Bill will immediately be a dead letter. That is the root of the whole trouble.

Babu JITENDRALAL BANNERJEE: On a point of order, Sir. Might we hear at a long last something about the recommittal of the Bill.

Mr. P. BANERJI: Sir I have no intention of replying to the remark of my friend Babu Jitendralal Bannerjee. I could only say that whenever he spoke on any motion, we heard him with rapt attention, because he is an orator. We have heard him indulge in all sorts of talks. If he will have a little patience, I will tell him at once what I mean by recommittal. I was just submitting to you, Sir, that these are the vital points. The present members of the Corporation are not like the old members. They are there for the benefit of the people and to work faithfully and they do not seek any favour. Government do not like them and want to oust them from there. With that object in view, the Hon'ble Minister has I think availed himself of this opportunity to crush them. If they would have been here, the Minister would not have the courage to bring forward this Bill. When he was in the Corporation, he made a compromise with the Congress Party and supported them.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I never supported them.

Mr. P. BANERJI: It appeared in the paper that he made a compromise with them, but subsequently unfortunately he did not keep it. Now I have explained my view. I think the poor Minister should have given these people an opportunity to say their say, and should not have done things at the dictation of somebody else. It is not yet too late to remedy the matter. If the Corporation cannot refute the charges, it will then be time for the Hon'ble Minister to do as he likes. With these words I commend my motion to the acceptance of the House.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move by way of amendment that the Bill be recommitted with respect to clauses 7, 8, 9, 10, 11, and 12.

Sir, to my mind there is a more important problem facing this Legislative Council than this fight—I do not know whether it is a mock fight or a bull fight—between the Corporation of Calcutta and the Government of Bengal. The important problem of great constitutional importance is this: When we referred the Bill to the Select Committee, we were under the impression that the Select Committee would examine the question thoroughly, get all possible evidence before them, examine all points of view and send us their recommendations. Well, Sir, the Select Committee asked the Corporation of Calcutta to send some representatives to explain their point of view. The Corporation in their wisdom refused to send a representative. I cannot help regretting this act of great discourtesy towards the Bengal Legislative Council on the part of the Corporation of Calcutta. Now, what is the position? The

Corporation of Calcutta in this matter have flouted this august body. What are we going to do? Are we going to swallow the insult and do our worst and pass this legislation? I think it would be a great mistake. What I would suggest is that this Bill be recommitted to the Select Committee, and the Select Committee should stand on their rights and ask the authorities of the Corporation of Calcutta to send representatives. The Bengal Legislative Council and the Select Committee appointed by the Council have a right under the constitution, or to be more correct under the Bengal Witnesses' Act to summon witnesses and if anybody refuses to appear, he will have to face the consequences. The constitutional procedure ought to be that instead of putting up with this insult we should stand on our rights, and ask the Corporation to send representatives. (A voice: Not ask but beg.) It is not a question of begging, but of command. The Select Committee adopted a very unorthodox procedure; that is the mistake. With the permission of His Excellency the Governor the Secretary should have sent summons and if the Corporation refused they could have been hauled up and punished. That is my one argument for sending back the Bill to the Select Committee. As you will note, I have suggested that clauses 7—12 should receive special attention of the Select Committee in case of recommittal. This part of the Bill is the only part worthy of serious consideration. Everybody wants that the system of audit should be proper and effective. Even some of the present members of the Corporation share that view. I read in a pamphlet circulated under the authority of the Calcutta Corporation that a suggestion was put forth by Mr. Santosh Kumar Basu, Mayor of Calcutta, that a system of pre-audit would be helpful, and then there is another important member of the Corporation, I refer to Mr. Naliniranjan Sarkar who also made certain suggestions in the matter. My whole point is this, that the proposal of securing an effective system of audit should be examined thoroughly and in a constructive spirit in a calm atmosphere and not in a spirit of prejudice. I think the Hon'ble Minister was very ill-advised in bringing these two proposals together, because in view of the political pitch that this measure has acquired, it is very difficult to consider this part of the Bill on its own merits. In conclusion, I beg to submit that within the very short period that the Bill has been before the Select Committee, it has not been possible for the Select Committee to give adequate consideration to the matter, and I think it would be to the interest of all parties to recommit the Bill to the Select Committee for further consideration and for further examination of the subject, and I believe if all parties approached the matter in the right spirit something good would result. I would ask the Hon'ble Minister to consider this aspect of the question seriously and not press for the consideration of the Bill at this stage. As regards the other part of the Bill, I hope if the Hon'ble Minister persists in his motion, I shall have an opportunity of expressing my views.

Mr. C. C. MILLER: Mr. President, Sir, the object of the amendments on which my two friends have so ably spoken, when they were not speaking about something entirely different, might be tersely summed up in three words—anything for delay. Already one Committee has laboured on this Bill for many hours, and it is now suggested that it should be recommitted with the obvious desire to delay its passage and to weaken its provisions. It is entirely unnecessary for me to recapitulate the reasons which led to the introduction of the Bill. Let it suffice to say that they were reasons of pressing necessity, and we congratulate the Government upon realising the necessity and facing its responsibility. We particularly congratulate the Hon'ble Minister on the firm tone of his speech which he has delivered this afternoon. Even now we are not entirely sure that the Bill is adequate in all directions, but we are not pressing any amendments, because we believe that the Bill in its present form will be acceptable to the majority of this House, and in expediting its passage to the statute book Government will have all the support that this group can give them. On the other hand, we shall resist to the utmost of our power any amendments which are brought forward with the object of weakening the Bill or of delaying its passage. Let it be understood that we are not supporting this Bill from hostility or bitterness towards the Corporation. Hatred is an evil god, and has already brought nothing but ruin, bloodshed, and suffering to this province. Our support of the Bill is based on one of the most elementary principles of civilization, viz., that no individual and no organization shall be at liberty to take to himself or itself power in defiance of the law of the land; and, Sir, let me remind the members of this House that in Bengal the law of the land emanates from this House.

Maulvi ABDUS SAMAD: Sir, I wholeheartedly support the motion for recommitment. The Hon'ble Minister has been saying in season and out of season that this Bill has not been introduced in a vindictive spirit. Now, Sir, it is an insult to the intelligence of the members of this House to be told so, because whether it was introduced in a vindictive spirit or not will appear from the provisions of this Bill and the circumstances attending the introduction of this Bill in this Council. We cannot accept as gospel truth what the Hon'ble Minister says. What do we find, and under what circumstances it was introduced? It was introduced on the 1st of April last, i.e., immediately after the last general election of the Corporation was over. And why? The real intention of the Bill is to tell the rate-payers of Calcutta, who sent their representatives to the Corporation, in an indirect way, that they have committed a great wrong, inasmuch as they returned representatives who did not enjoy the confidence of the Government. That is the real intention of the Bill. And this shows that this Bill has been introduced in a spirit of vindictiveness. Otherwise, how can we explain the fact that though

according to the Government point of view the alleged malpractices and maladministration have been going on in the Corporation for the last 10 years—during the last six years of which the Hon'ble Minister himself was a Councillor and he continued as such up till 1930, when he was appointed a Minister of Government—no step was taken to remedy these evils. As an important councillor in the Corporation, he must have known of the malpractices which obtained during this time. Why did he not do anything then if he was cognizant of these allegations? If these things were of such a grave nature as required to be corrected by a Bill of this nature, why did he not take earlier steps in this direction? Instead of that, he waited till the 31st of March, 1933, when he thought that, as expected by Government after the civil disobedience movement was supposed to be crushed, this time the rate-payers would return all such councillors as would enjoy the confidence of Government. What he expected did not happen. Therefore, this Bill has been introduced really with that end in view. And in spite of what the Hon'ble Minister may say that this Bill does not contemplate any encroachment upon the autonomy of the Corporation, I submit that this Bill strikes at the very root of the responsible and autonomous character of the Corporation, because, according to the Hon'ble Minister, the rate-payers of Calcutta are a set of ignorant people who do not know how to select proper representatives. That he has said in clear and unambiguous terms. If the rate-payers are ignorant and not fit to be entrusted with the right of exercising their franchise, it would have been far better if a Bill were introduced consisting of one clause only, viz., that the rate-payers of Calcutta should in future elect representatives who enjoy the confidence of Government and none else and that if they do not do so, their "elections" would not have the approval of Government.

Now, Sir, what is the harm in recommitting this Bill? Certainly the heavens would not fall by a few months' delay. The Corporation is not committing any public nuisance, which requires to be prevented by an *ad interim* order. Whatever indiscretions they might have committed —assuming for the moment that they have committed some indiscretions—there is nothing to show that after the warning given to them in June or July last year, they have gone against the wishes of the Local Government. So, I think, that the Corporation ought to be given an opportunity to mend their ways and to show that the present Corporation is quite a different body from the previous one as regards their attitude towards the question under discussion.

Now, Sir, it is like visiting the sins of the sire on the son. The present Corporation is a new body and is not a representative of the previous one and as such is not liable to be punished for the alleged sins of the previous Corporations. The Hon'ble Minister should have waited and seen how the present Corporation behaved. Moreover, the recommittal of the Bill would have this advantage, *viz.*, the members of the Select

Committee would be in a position to go through the two hundred and odd amendments which have been tabled by the various members and to judge whether any further amendments are necessary or not.

With these few words, I support the motion for recommitment of the Bill.

(At this stage the Council adjourned for 15 minutes for prayer.)

(After adjournment.)

Dr. NARESH CHANDRA SEN GUPTA: Sir, I must say that I have a considerable amount of sympathy with the proposal for recommitting the Bill, but on somewhat different grounds. In introducing the Bill, the Hon'ble Minister stated that it was introduced not to do the Congress party any harm, not to stifle the Corporation or to put obstacles in the way of many of its beneficent activities, not to safeguard the interests of another Corporation which were menaced by some of the acts of the Corporation, but solely to safeguard the interests of the rate-payers—and those interests had been very seriously jeopardised by—

firstly, the employment of political offenders in schools and elsewhere;

secondly, the unauthorised expenditure of all sorts by the Corporation in the past which had caused a terrible loss to the rate-payers; and

thirdly, the criminal negligence of the Corporation in the realisation of the rates and taxes.

Sir, the Bill was going to safeguard the interests of the rate-payers in those matters, *firstly*, by making a clean sweep of all political offenders in the Corporation; *secondly*, by effectively surcharging everybody responsible for every pice spent by the Corporation—I mean to say since 1930, *i.e.*, since the Hon'ble Minister ceased to be a councillor of the Corporation. Well, Sir, that was the noble enthusiasm shown by the Hon'ble Minister for safeguarding the interests of the rate-payers in the future and also for getting the wrong done to them in the past redressed. When the Bill goes to the Select Committee, we find much of the noble enthusiasm of the Hon'ble Minister had evaporated. The great body of political offenders serving in the Corporation who are said to be doing a lot of mischief to the rate-payers are allowed to go on in their career of mischief without any interference by this Bill. All the huge sums of money lost—the Hon'ble Minister was

not in a position to tell us the extent of the loss with regard to any one of the items which must have been terrible—are to remain unrecovered, but this is to be a law for the future, to safeguard the interests of the rate-payers in the years to come. Well, Sir, one may be pardoned for inferring from this that all the lofty enthusiasm of the Hon'ble Minister for the interests of the rate-payers was more or less moonshine. (Hear! hear!). The Hon'ble Minister went about the business in pursuance of a policy of Government, and so long as that policy is safeguarded, he does not care a tuppence whether all the injury said to be suffered by the rate-payers is remedied or not. That is an inference which is legitimate, but it may be right or it may be wrong. But if we have got thus far and if Government's enthusiasm has cooled down to this point, it is also equally legitimate to infer that if we get a litle more time then the enthusiasm of the Hon'ble Minister will cool down still further, if indeed it does not come down to the freezing point, so that Government may not at all proceed with this unwanted and unnecessary Bill in the form in which we have now got it. But I must at once say that I do not contemplate for a moment that there is nothing in the Bill which need not find a place there. There are some provisions with regard to audit, for instance, which with suitable modifications ought surely to remain, but in the present form it is neither necessary nor wanted in the interests of the rate-payers. At any rate, having regard to the fact that Government are not going to surcharge anybody for past expenses or for negligence for accounts displayed under the old Act, and that you are not going to get rid of the employees of the Corporation who have been political sufferers, I do not think there is any pressing emergency for this measure. No pressing emergency has been made out. All that the Hon'ble Minister has told us in his speech here and all that the Government have told us in the pamphlets which they have issued relate to incidents of a time which is practically long past, and there is nothing new which has happened within the last six months. Therefore, a little more consideration of the provisions would not be inadvisable and unhelpful.

While I am referring to the pamphlets, I might just mention that the very pamphlet shows that Government have not yet had sufficient opportunity of getting a perfectly clear idea of the problem before them and the remedies which they suggest. Perhaps they were carried away too much by their enthusiasm and feeling, or it may be by something else. Now this pamphlet seems to disclose that Government have not very clear ideas on the subject, as I have already said. In the pamphlet on terrorism and civil disobedience in the Calcutta Corporation, a long list of names has been given of political offenders who have been employed as teachers and otherwise in the Corporation. At page 3 we have a long list of persons who have been dealt with under the Bengal Criminal

Law Amendment Act, the Defence of India Act, or Regulation III of 1818, who were employees of the Calcutta Corporation. But does the Bill provide for them, for any persons who have been convicted or who have been punished otherwise than under Chapters 6 and 7 of the Indian Penal Code? Then, again, there is another list in page 5, of persons dealt with under the Criminal Law Amendment Act and Regulation III; they do not come under the provisions of this Bill either. Then in the same page there is also a list of teachers of Corporation primary schools who have been convicted in connection with the civil disobedience movement under the ordinances, but they do not come under the Bill either; therefore, these illustrations do not prove the case for Government, and these illustrations have been given because there is a certain amount of confusion in the minds of the legal advisers of Government as to what they really want, as to what is the real evil they want to provide against, and as to how they are going to fight against it, that is, the instrument. Therefore, I think a little more time will promote a clearer atmosphere and give us time to think in what way the provisions of the Bill are going to affect the Corporation. In this view of the case I think a few months' delay would not matter. The only possible harm that can come is that the Corporation may be spending a little more money on irregular schemes, but judging from the temper of the Corporation at their last meeting, a report of which was published in the papers this morning, one might be excused for saying that the Corporation is not going to do any such thing. The Corporation is not going to expend any money outside the limits of the sanction given by Government, even if the city were going to be deluged. That being so, I do not think there is any necessity for hurry. A little more consideration will clear up the matter and, possibly, as a result of the deliberations, we should have a Bill which every right thinking man will be able to support, because so far as the provisions relating to the effective carrying on of audit are concerned, and so far as provisions relating to the recovery from a wrongdoer of any money which has been misspent or misappropriated from the Corporation funds, are concerned, there cannot be any two opinions in this Council or outside; so that if any provision seeks to do that, Government will have our support, and unstinted support. But the present Bill does not seek to merely do that; its object has been clouded by other issues and passions under which I understand the Bill has been framed, and from the touch of which the Bill even as amended in Select Committee is not free.

Mr. B. C. CHATTERJEE: It has always been my custom to speak in support of measures which have been introduced by the Hon'ble Minister in charge of Local Self-Government, and it is, therefore, with some sort of a wrench that I find myself compelled to-day to range myself

in opposition to this Bill at this stage. I support this motion for re-committal, and I do so on the ground the Hon'ble Minister says he also has at heart, namely, the clearing up of the atmosphere. Now somebody may laugh at me if I say that the Corporation of Calcutta, in the opinion of the Indian residents of Calcutta, consist of a large number of responsible citizens of Calcutta, and that we have men there in power who can be trusted with the work of governing Calcutta. We find that a very serious allegation has been made against the Corporation, an allegation to the effect that the Corporation have as their employees murderers and dacoits. But is there any Bengali worth the name who is going to listen to a charge like this without giving the Corporation a chance of refuting that charge? Is there anybody in this Council with an iota of sense of fairness in him who will say that the Corporation authorities should not have a chance of confronting the Government and telling them that the charges which they have brought against the Corporation are not true and just? Let Government also have a chance of telling the Corporation authorities, if the facts are on their side, that they are right and that the Corporation is wrong. Are you going to decide an issue like this behind the back of the Calcutta Corporation? It is not done anywhere, and it cannot be done here. I ask you, gentlemen, who happen to sport British names and who, I suppose, at one time were born in England, are you going to support such a thing? Can you support such a thing? I am confident that you are not going to level these charges against the Corporation without giving them a chance of refuting them. (A VOICE: They were given a chance.) I say that the Corporation had not had a chance. You insulted them; you made them an insulting offer by asking them to come up to the Select Committee. That is not playing the game. Do you not want to give them an honest chance of showing that this Bill is entirely gratuitous and unnecessary? That is their position. Surely you are not going to rob them of that chance. What have they done to be robbed of that chance? Let me ask: Are the elected members of this House going to betray the interests of the country, going to betray so many of their own countrymen who are in power on the Corporation, by simply telling them that we shall come to a judgment behind your backs? Are you going to get self-Government on those lines? Is popular government going to be based on the principle of judging one behind one's back? That is exactly what I fear the Hon'ble Minister is going to do under the influence of his officers and of the Government to which he belongs—a Government which is partly popular and partly reserved, a Government consisting of men who want to rule and of men who should serve and not rule. He is under the influence of men who want to rule and rule with an iron hand and who moreover do not want to identify their rule with justice. I say it is scandalous. It is a great censure on this Bengal Council, at least on the elected members, Hindu, Muhammadan and

English, that they should adopt this totally unfair, unHindu, unMuhammadan and unBritish principle of judging people without giving them a chance or representing their case. "Judge not lest ye be judged" can be said to a Minister and a Member of the Executive Council as much as to anybody else. I shall vote wholesale and ask everybody in this Council to vote for the Hon'ble Minister, once he gives the Corporation a chance of proving what they are saying, namely, that the Minister is not right in what he says. So let the two parties meet together, and let them have a talk, and let each try and justify its own position. After that, if the Hon'ble Minister can prove to us that the Corporation had been employing dacoits and murderers, then we shall all vote for the Hon'ble Minister and against the Corporation, and pass the Bill *nem con.* Here are gentlemen of the Corporation who have said not once but many times that these charges are false. I do not want to judge without giving either side a hearing. Because they belong to the Corporation, must you say that you disbelieve them, and because the Minister belongs to the Government—a Government which is half man and half, I do not know what; it is incapable of definition—it may be called a hermaphrodite Government.

Reverend B. A. NAG: An illustration of 50:50.

Mr. B. C. CHATTERJEE: Of course Mr. Nag is living up to his reputation as a master of irrelevancy; he is proving that once more.

My point is this: If we have a little time and if this Bill is recommitted, you will be creating a chance for the Corporation to meet the Minister round a table and discuss all these matters and thrash them out. Why should such a chance not be availed of? It is never too late to do justice. In fact, that is the history of British administration in India. Justice always comes late, but it does always come, and we welcome it because justice is never too late. Therefore, I appeal to the Minister to withdraw his opposition to this recommitment motion and create that opportunity for which I am asking. I am not asking for this opportunity irresponsibly. I have been asked by some prominent members of the Corporation—members in authority—to say that if this chance were given, they would avail themselves of it. I am appealing to the Hon'ble Minister to take this assurance seriously—that I have been authorised by prominent members of the Corporation (CRIES OF: Name them; name them.)——If the Hon'ble Minister wants names, I will give them to him. (VOICES: We want the names.)

Mr. W. H. THOMPSON: Give us the names.

Mr. B. C. CHATTERJEE: Well, if Mr. Thompson gives me an assurance that he will vote for recommitment of the Bill, I will give him the names. It is no use shouting for names unless you give me that guarantee.

Babu JITENDRALAL BANNERJEE: I assure Mr. Chatterjee that I will vote for recommitment if he gives us the names.

Mr. B. C. CHATTERJEE: I shall give Mr. Bannerjee the names before he makes his speech. I am appealing to the members of the Government; I am appealing to Sir William Prentice—he is not here, he ought to have been here—I appeal to him as an Englishman not to lose his English character—I appeal to Mr. Woodhead, the keeper of our financial conscience, whose conscience must be strong enough to tell him that it is unBritish, unjust, unfair to judge the Corporation without giving them a hearing. I ask my friends opposite, why should you behave in an unBritish manner? Stand by your British principles: the heat ought not to dissolve your moral fibre, though it might create baldness and other physical calamities (laughter)—moral ideas surely do not change colour with the change of climate. I should like to know what right you have to vote against this motion for recommitment, without giving the Corporation a hearing. I also ask my Muhammadan friends not to be led away by the blandishments of Government. I see there are two or three whips going round and round and pouring honeyed words into the ears of my Muhammadan friends. I ask them to judge the thing dispassionately and apply the principle of not condemning an institution before giving it or its representatives a hearing. As regards the Hindu members, if they are at all true to what has been preached by them, what has been inculcated in them all this time, then surely it will be wrong for them to vote for Government and condemn the Corporation. I submit, Sir, things are being thoughtlessly done, if I may say so without disrespect.

I have a list of names of the convicted persons who are or were supposed to be in the employment of the Corporation. Now, Sir, Pulin Das is one of the names which is being trotted out now and then. He received pardon from the King Emperor. His Majesty the King Emperor at the conclusion of the Reforms declared an amnesty in favour of those who in their eagerness for political progress had broken the law. I say that 95 *per cent.* of them are now leading honourable, straight and noble lives. Pulin Das is one of the men whom no Government or no Government official has ever accused of any kind of wrong-doing since his return from the Andamans. On the other hand, he in collaboration with the late Mr. S. R. Das started a journal named "Hak Katha" which put up a real fight against the non-co-operation movement of Mr. Gandhi; and yet some advisers of Government with little knowledge, with the confidence born of ignorance, have said in that pamphlet that he has been employed by the Corporation, and that, therefore, the Corporation must go. In fact, Pulin Das is not an objectionable person. On the other hand, he has helped Government in its fight against the non-co-operation movement. And last of all, he has never been in the

employment of the Corporation at all! Sir, if we had opposed a Government measure in this way without marshalling the facts in a proper manner, we would have been at once put out of court. If a lawyer goes before a judge with such kind of evidence, the judge will silence him in two minutes. But yet a Government—a live Government—in spite of its composite character, floods the country with pamphlets containing this ridiculously incorrect assertion. Then, again, we are told that the Corporation employ persons who are guilty of civil disobedience. We know that if a Bengali tells a fellow-Bengali not to buy British goods, he could be or would be hauled up before a Court of law and sent to jail. Now, on that principle, Sir, every Englishman ought to be sent to jail. I have not known of any Englishman who will tell his fellow-countrymen not to buy British goods. I have seen in England all sorts of posters enjoining on the people that they must buy British goods. And because a Bengali has been British enough to say to his fellow-countrymen to buy Indian goods, he must be sent to jail! Most admirable application of British justice! Sir, I refuse to be a party to the condemnation of a man who has merely been preaching the patriotic doctrine in favour of buying the goods of his own country to the exclusion of foreign goods, and where any such person is sent to jail, I say that he is sent to jail wrongly. Now this Bill is going to prevent the Corporation from employing such patriotic people. Such monstrosities are only possible in a country where there is such a monstrous system of government. It is inconsistent with the policy of any Government in any part of the world, except the country known as Bengal.

Then there are other kinds of people who are also objected to—I suppose the people who took part in the flag-waiving ceremony must be considered bad people, and if the Corporation gave them any employment, the Corporation must be abolished! I found the report of a case the other day to the effect that the Chief Presidency Magistrate of Calcutta held that it is the Police who created a disturbance by molesting the people who wanted to hoist the national flag, and yet my honourable friend is being persuaded to pass a law to the effect that these men should not be employed by the Corporation. Our friends forget that under the Gandhi-Irwin Pact a pardon was given to all these men.

Babu JITENDRALAL BANNERJEE: They are not touched by the Bill.

Mr. B. C. CHATTERJEE: Wait, if they are not to-day, they will be ultimately by an amendment of the Act. My point, therefore, is that there are such serious matters which arise on a proper consideration of the Bill that it ought to be reconsidered, and while you are reconsidering it, you should have the representatives of the Corporation sitting with you round a table, and give them the opportunity of telling you

why they consider this Bill objectionable, and to convince you. Surely, if you give them that opportunity, the sky will not fall; Bengal will not sink into the sea if the consideration of the Bill is postponed for one session. I ask you in the interest of peace, in the interest of a good atmosphere, and in the interest of every possible argument on the side of fairness, justice and fair play to accept this amendment. The Hon'ble Minister should give us a chance of having this matter reconsidered and give himself a chance of coming face to face with the Corporation before passing judgment on that body.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I wish to assure Mr. B. C. Chatterjee that the Mussalman members are not going to be persuaded to take any action either on the blandishments of the whip or by the bullying persuasion of Mr. Chatterjee. They are impervious to both, and the action they are going to take will be entirely according to the merits of the case as they appear to them. Mr. Chatterjee has tried to show that this Bill has been brought before this House at this stage without giving the Corporation any opportunity of considering the provisions of the Bill and giving their opinion on them. Mr. Chatterjee was not here when the Bill was first published. That was about six months ago, and ever since the Corporation has been considering or has had the opportunity of considering the provisions of the Bill and giving an opinion on them. On the receipt of the Government letter asking the Corporation to give an opinion, the matter came up before a meeting of the Corporation, and there was a motion before them suggesting that the Corporation should send representatives to confer with Government, who without expressing any opinion should try to remedy any of the defects which in their opinion were there, and if possible——

Mr. B. C. CHATTERJEE: On a point of order, Sir. How could the representatives of the Corporation confer with Government without expressing any opinion?

Mr. PRESIDENT: That is not a point of order.

Khan Bahadur MUHAMMAD ABDUL MOMIN: There was a motion in the Corporation suggesting that the representatives of the Corporation should hold a conference with the Government in order to arrive at some decision with regard to the merits of the Bill and the defects that may be found in it. The Corporation not only refused to accept that motion, but after many fiery speeches, which were mostly

irrelevant, and making all sorts of charges against Government, they wanted to send a representation to Government to tell them that in their opinion the Bill was absolutely unnecessary and that they were opposed to the Bill in its entirety. Later on, when the Bill came before the Select Committee, they were given another opportunity of sending representatives before the Committee to discuss the provisions or to represent their case before the Committee. This also was placed before the Corporation, and the Corporation refused indignantly to comply with the request of the Select Committee of this Council, which they termed as a subservient body. What other opportunities would my friend Mr. B. C. Chatterjee want the Corporation to be given? He now wants that the Bill should be recommitted to the Select Committee. We as members of the Select Committee know that it will be useless to send the Bill for reconsideration because there is nothing that we have not considered, and that further consideration will not throw any new light on the provisions of the Bill. He said that he had come to know on very good authority that some important groups of the Corporation were willing now, they were not willing then,—now probably they have come to their senses—to discuss the matter with Government members. I could have appreciated Mr. Chatterjee if he had the courage or frankness to disclose the names of such members or to put in a petition from those members signed by them before the House. In that case the matter might perhaps have been considered. But simply to say that some members on some day have given him some sort of authority to do something will not appeal to any sane member of this House, and I do not think that on that he can base any argument for recommitment of the Bill to the Select Committee. Everybody here understands the real motive of all these motions. These are all delaying tactics which do not appeal to us. As a matter of fact, as has been mentioned by the Hon'ble Minister, this Bill has been brought not too soon, but ought to have been brought long ago. Perhaps the reason why the Hon'ble Minister did not think of doing so was that there was still some hope lurking in him or in the Government that the Corporation would mend its way and be careful of its responsibilities. But since it found that they would not do so, the Bill had to be brought; Government found from the manner in which the Corporation treated the two letters which Government wrote to them. I do not want to go into the details of the electrical scheme and the various other schemes that have been brought into the debate. All that I want to say is that we feel that the recommittal of the Bill to the Select Committee would be worse than useless. It would be no use at all, because I know, whatever some of the prominent members of the Corporation might have told Mr. B. C. Chatterjee, that it would not be possible for them to carry any resolution to the effect in the Corporation itself by the majority of the members who at the present moment hold sway in the Corporation. For these reasons I strongly oppose the amendments.

Mr. NARENDRA KUMAR BASU: Sir, I rise to support the amendment, but the reasons for my support are slightly different from the reasons given by the previous speaker, Mr. B. C. Chatterjee. In one word, I support this amendment not for the purpose of giving the Government an opportunity of meeting the Corporation across the table and settle matters, but for the purpose, I may say bluntly, of giving the Government a *locus pœnitentiæ*. I submit that this Bill has been brought in really as a vindictive measure. I shall demonstrate that in a moment. In his statement which was published in the Calcutta papers on the appropriate date, the 1st of April, the Hon'ble Minister in charge of Local Self-Government was anxious to tell the citizens of Calcutta that it was not a vindictive measure, but that it was conceived in the best interests of the rate-payers of Calcutta. That assertion was necessary, because of the following statement that the Government had their measures ready for some time, but they had not introduced it because they were awaiting the results of the election to the Corporation. I will ask the members of the House to pause and consider the inward meaning of that statement. Did it not mean that without waiting to see how the new Corporation would function, without waiting to see how the newly elected members of the Corporation would work, but simply because as soon as the Hon'ble Minister found that the majority of the members were from the Congress and not from the camp to which the Minister in his unofficial and unregenerate days belonged that the Bill has been introduced? I submit that this is a clear proof of vindictiveness. Why should the Minister of Local Self-Government want to give so much power to the Government of Bengal? Why should the Government of Bengal be so anxious to take so much power in their own hands that they want to scrutinise the appointment of every officer by a great autonomous body like the Corporation of Calcutta with its huge income, huge works and huge establishment? Have the Government in the Local Self-Government Department nothing better to do than to scrutinise the merits and antecedents of every applicant for Corporation service? It may be that with the retrenched budget of the Local Self-Government Department the Hon'ble Minister finds his time hanging heavy on his hands; but that is no ground for taking up this additional work. I am afraid that from the statement made by the Hon'ble Minister in this Council it is patent that that would not be a work which would be taken up by his department. He has said that Government is the best instrument to find out whether a particular person has mended his ways or not. I take it that that is the function of the Government in the Police Department and not the Local Self-Government Department to find out from the records of the Commissioner of Police the activities of any particular individual since he has come back from imprisonment or incarceration. I take it that the Hon'ble Minister is willing to abdicate his function, so far as this particular Bill is concerned, and to make it over to the Police Department. I am also aware of the fact that the

present Minister may be looked upon to save the people, at least some of them, from the ire of the Police. Has he not told us in his inaugural speech that even though there was the Police black mark against Babu Abinash Chandra Chakravarti who was suspected about 20 or 25 years ago, the Local Self-Government Minister appointed him as Assessor to the Calcutta Improvement Trust Tribunal? But we shall not always have Ministers like that: there may be Ministers who are absolutely subservient to the Police Department and to their colleague in charge of the Police portfolio. What then will be the fate of the rate-payers of Calcutta and their elected representatives. Khan Bahadur Momin who jumped from a Divisional Commissionership straight into the Mussalman front bench has assured Mr. B. C. Chatterjee that the Mussalmans in a body will not support Mr. Chatterjee. If the Mussalman members of the Council are not led away by the blandishments of the Khan Bahadur, who I am sorry to say has in his speech betrayed the rule of conduct that in my younger days I read of in a book which was then widely read, "Helps Essays," that a man who loses a motion in a Committee is bound loyally to support the decision of the Committee, then they ought to support Mr. Chatterjee. The Khan Bahadur having been defeated in the debate in the Corporation now tries to find his own way here and declares that the Mussalman members will all follow him. I hope the Mussalman members will not. I hope the Mussalman members will rise above the statement made by him. The Bill, I submit, is as has been said by a great Judge in England, the outcome of the insatiable appetite to control other men's affairs by those whose capacity to manage their own affairs is in inverse proportion to their desires. That was said by a great Judge, Mr. Justice Eve, who is still alive. As has also been pointed out by the present Lord Chief Justice of England in his admirable book, which I commend to all members of this House and to the Hon'ble Minister if he has not already read it, the New Despotism, on page 109 of which he says that "all experience shows that nothing is more dangerous in public affairs than that nominal responsibility should belong to one person, while real authority rests with another," by this Bill the Hon'ble Minister is trying to give to the Municipal Corporation nominal responsibility for making appointments, while the real responsibility rests with the Government. That word is not defined in the Bill, because it is already defined in the Government of India Act, but I take it that the words "Local Government" do not mean "the Government of Bengal in the Local Self-Government Department." It rather means that conglomerate body which has no soul—it has neither a body to be kicked nor a soul to be damned—but it is a Corporation of several persons one or more of whom may for the time being be triumphant and may sway the destinies of many. I submit that the danger of permitting the introduction and the consideration of legislation of this description is very much borne out by some of the amendments tabled. Why, Sir, in one of the amendments, while even the

Government have merely proposed that in the case of doubtful appointments the Local Government may interfere——Why, Sir, a Rai Sahib, I will not say who the gentleman is, but simply this, that he is one of those who dance to the tune of the Government organ-grinder, has tabled a motion that all appointments must be made by the Local Government? That is the sort of thing to which we are exposed by the introduction of the Bill and of its consideration in the present atmosphere of the Council and of the country. I submit that we are being told day after day and hour after hour that the destinies of the country are to be in the hands of the people of the country ere long. If that be so, why is this desperate hurry for carrying on and passing this legislation in the present session of the Council? After all, we are here by sufferance, and if the law were allowed to take its own course, we would not have been here, but that is a different matter. I do submit that if the constitution is to be changed and if the powers of an autonomous body like the Calcutta Corporation are to be interfered with, it had better wait unless as I have said there is some desperate hurry about it. And, Sir, as Dr. Sen Gupta has pointed out, by the removal of the measures regarding the retrospective effect of some of the clauses, the urgency about this legislation is gone. I shall not worry your patience or the patience of the House by taking up at this stage consideration of the different clauses of the Bill, but I do say that from what one sees in the papers and from what one reads in them, one is tempted to think that, probably the Minister and his advisers have fallen into the habit—I shall not use the word "habit"—have committed the mistake of thinking that the rope round their necks was a serpent—by this I refer to the Bengali proverb so well known to all and sundry, namely,—"রজ্জুতে সর্প ভ্রম". I sumbit, Sir, that because it was the Congressmen who got returned in a majority to the Corporation at the last election, it was thought in certain quarters that the wishes of the Government would be flouted, and they have, therefore, hurried with this Bill. If the House would accept this motion for recommittal—though I know that much good would not come out of it—Government would have time to consider the matter carefully—consider the facts and not the fictions—and also to consider the statements of the case which have now been made public by the Corporation, and I think it would be fraught with immense good.

Babu AMULYADHAN RAY: Mr. President, Sir, after hearing the Hon'ble Minister I have changed my mind and rise to oppose the motion. I do not know if I shall be in a position to confine myself within the scope of the subject-matter of discussion as my tongue will be going out of order regardless of your ruling. However, Sir, you have never lagged behind to correct me and that is my consolation. (Laughter.) At the very outset, I may tell the House that I shall not criticise the Hon'ble Minister at this stage in matters of detail, nor I shall pronounce

my verdict on the point whether the Bill will be passed or thrown into a dust-bin of the Corporation of Calcutta. I shall draw the attention of the hon'ble members of this House to the main principle underlying the Bill which has been agitating the minds of a certain political section of our countrymen, and for which this House of Legislature of Bengal has been called subservient and unrepresentative in character—

Mr. NARENDRA KUMAR BASU: Not at least by you.

Babu AMULYADHAN RAY: I am not going to listen to Mr. Basu. Whether this House or in particular that section of the non-official Indian members who agree with the principle of the Bill is servile, subservient or unrepresentative in character is a matter of record. That section did not mortgage or sell, like our friends with mixed colour painted on their face, the tenants of Bengal constituting 80 *per cent.* of the population of this province to the *zemindars* during the time of amending the Bengal Tenancy Act in 1928; they did not welcome a second chamber against the interests of the people or more recently they did not seek the protection of the Home Member in connection with the unpopular amendments that came up before the House during the discussion of the Money-lenders Bill.

They did not look to the face of the Hon'ble Sir William Prentice for recovering rents of agricultural land as a public demand under the Bengal Public Demands Recovery Act, 1913. I ask in all seriousness Mr. Narendra Kumar Basu and Mr. P. Banerji whether any person convicted of an offence as detailed in Chapter 6 or 7 of the Indian Penal Code should be appointed as a municipal officer or whether any grant should be made by the Corporation to any educational institution which employs any person who has been convicted for such offences. I pause for an answer: No answer. With all the force I can command, but in all politeness, I challenge Mr. P. Banerji whether an enactment of legislation preventing appointment of a dacoit, a convict or a murderer as municipal officer will interfere with the freedom of the Corporation of Calcutta or it will lead to prevent the childish play of a corporate body with power entrusted to them by law. If, as a matter of fact, this Bill was likely to encroach upon the rights and liberties of the citizens of Calcutta, we would have killed it in its infancy without minding the favours or frowns of the members of the Treasury Bench. On the other hand, I find that it will purge the Corporation of the impurities that have crept into its administration. Sacrificing quality in matters of appointment at the alter of a political creed, turning out the management of the biggest administration in the history of local self-governing institutions into a domestic concern, putting in creatures convicted of offences in defiance of law and order and neglecting the claims of candidates belonging to the depressed classes are some of the leading testimonials to the necessity of such a Bill. Sir, if I had been the Minister

I would have done the same thing. (Hear! hear!). The critics of this amending Bill have alleged that there is a political motive behind the introduction of the Bill and that Government are using the obliging services of the Local Self-Government Department to execute their programme for throttling the nationalistic activities of the Corporation, many instances of which I have already submitted before the House and I do not want to go into the details again. I may tell the House, Sir—— (Here the member paused for some time.)

Mr. PRESIDENT: Why not refresh your memory by reading over once again that portion of your speech? (Laughter.)

Babu AMULYADHAN RAY: Sir, I have not got it here. (Renewed laughter.) But, I can assure the Hon'ble Minister that Sir Surendra Nath was also criticised right and left—and for one achievement of his—the Calcutta Municipal Act—the Calcutta Corporation is now dancing with Rs. 3 or Rs. 4 crores.

Sir, we have seen how the so-called nationalist party have followed their programme: they have co-operated with the Treasury Bench at the time when the interests of the people have not justified their action and they have followed the policy of non-co-operation whenever there has been a movement or activity for the subversion of law and order. I want, therefore, to tell Mr. Narendra Kumar Basu and Mr. B. C. Chatterjee, who have asked us whether we shall vote with the Treasury Bench or for the amendment, that we are prepared to vote for the amendment if we are convinced that there is no necessity for this Bill. We are, however, convinced that the principles underlying the Bill must be given effect to. I, therefore, give my full support to the Hon'ble Minister and oppose the amendment.

Reverend B. A. NAG: Sir, I rise to oppose the amendments. Khan Bahadur A. Momin has told us that the Select Committee has considered the Bill from every point of view. No new view has been mentioned which, he has assured us, has not been considered in the Select Committee. That is one side. On the other side the Corporation and its individual members, its Mayor and its ex-Mayor, have considered the matter threadbare not only in their meetings but through the public press. I would like to ask my friend, Mr. Chatterjee, whether he can tell us of a single new point which is not mentioned in the columns of the newspapers which have served the party very well, *viz.*, *Advance*, *Liberty*, *Bangabani* and many other vernacular papers.

Sir, I make it a point to read many of these articles and my views have remained unchanged——

Mr. B. C. CHATTERJEE: They have not changed mine.

Reverend B. A. NAG: It may be so, but I should have expected a barrister of the experience of Mr. Chatterjee to mention some of the new views, but it was a disappointment as his speech was irrelevant and full of verbosity and nothing else. (Laughter.) If new points could be furnished, then we might be agreeable to this amendment, but this has not been done.

Mr. Narendra Kumar Basu and Mr. B. C. Chatterjee and some of the previous speakers and supporters have assured us that the Corporation are quite opposed to the Bill. I have not read in that way the proceedings in the Corporation itself. I am sure, Sir, that the members of this House are well aware of the fact that the Corporation is conducted on party lines. The resolution that was placed before the Corporation by the whip of the party in power reads thus: I may with your permission, Sir, quote it—

"That in view of the recent changes in the delegation of powers regarding appointments and the appointment of a Special Committee for a comprehensive inquiry into and suggestions for the improvement of Corporation finances which would include suggestions in regard to accounts and audit, the Government may be requested to withdraw the Bill."

If, Sir, that is not an admission from the whip of the party before the Corporation itself that there is something very wrong in the matter of appointments and in the matter of finances, both of which require to be rectified, I do not know what English language means; but it was not that alone. The Mayor from the mayoral chair said this at that very meeting:—

"As regards the question of appointments, the House is well aware that some changes have been effected in the appointing authority by means of the delegation of powers. Sufficient trial has not been given to these changes, and I do think the Government will be well advised, at any rate, to stay its hand if it cannot see its way to withdraw this Bill altogether. I, therefore, suggest from my place in this House—and I hope and trust with the support and sympathy of the members—that the Government will consider the position before it desires to go on with this Bill on the Legislative anvil. I think it will be far better advised, if I may use that expression, if it, at any rate, does not push on with this Bill in the coming session of the Council and see and watch how the Corporation succeeds in putting its own house in order. So far as financial aspects are concerned, we have accepted the position that our finances do require looking into, and we say that we want to make a thorough survey of this matter."

Therefore, we are convinced that the views of responsible members in the Corporation, not of such irresponsible critics outside it such as Mr. Banerji and Dr. Sen Gupta, show that there are some reasons for the introduction of this Bill.

Now to go back to the point of criticism made against the Bill that it is against the interests of the rate-payers of the city of Calcutta, I do not know whose interest the Corporation was serving. It is a well-known fact (if it is not known to my friend Mr. Basu or Mr. Chatterjee, they might read the columns of *Liberty* or *Advance* from January on to the election day) how the Bengal Provincial Congress Committee has been made the deciding factor in the affairs of Calcutta Corporation as against the District Congress Committee. The members of the party in power in Calcutta simply carries out the wishes of the Bengal Provincial Congress Committee. Now the Bengal Provincial Congress Committee is composed of members from Chittagong, Pabna, Bogra and Dacca and what not? Are they the men who should control the affairs of the city of Calcutta? And yet when men like Mr. Basu and Mr. Chatterjee say that that body is serving the interests of the rate-payers of Calcutta, I may simply say that I am amazed at their unwisdom. That is one point. Secondly, it is a well-known thing also that the Corporation adjourns its meetings on flimsy, or at any rate, on political grounds oftener than not; I do not want here to discuss the question of adjournment as such, but I want to look at it from the point of view of the interests of the rate-payer. If they adjourn their meeting to a regular day, I will not have the same kind of objection but they adjourn from the regular day to an irregular day, with the result that more than half of the members cannot be present, and the affairs of the Calcutta Corporation are decided by less than half of the representatives of the rate-payers of Calcutta. Is that in the interest of the rate-payers of Calcutta? I hope not. My friend Mr. Narendra Kumar Basu has made a point that by appointing the political sufferers they are not going against the interest of the rate-payers. Sir, I speak here as a rate-payer. In the ward where I live (Ward IX), with the permission of Government, compulsory free primary education has been introduced. Every child is sent to school, and if these schools are manned by political sufferers (whether I like it or not) still my child is there under the influence of a teacher who is known to the child as one who has suffered and who has been rewarded because of that suffering. I do not want my child to grow up with the idea that when you do anything against the State you will be rewarded. Certainly I have every right to expect for the sake of my child that he should not be imbued with that idea. Any educationist like my friend Mr. Mukherjee will tell us that the best way to educate for a teacher is to impart himself and he does so consciously or unconsciously and if political sufferers impart themselves to

my children certainly I have every right to object to that as a citizen of Calcutta. For this reason and for other reasons which I could go on relating but which I will not, as I believe I have spoken sufficiently about the points against the acceptance of the proposal to recommit the Bill.

Now the proceedings of the Calcutta Corporation will show something like this in regard to audit. It is an amazing thing. In connection with contracts 63 and 21 (portion of Garden Reach Main) Bando and Co., and also another European company submitted tenders: the rate given by Bando and Co. (that was in 1929), was Rs. 22-8, while that of Beruck and Comens was Rs. 16 and the party in power, against all rules of tender, after having opened the tenders, asked Bando and Co., whether they would be prepared to lower their rate. They did so, and the tender was given half and half and what is still more amazing is that after Bando and Co., had worked for a little while, the rate of that company was increased to Rs. 30. I do not want to go into details. I have given an outline of the facts and I would like to know whether these things are done in the interest of the rate-payers of the city of Calcutta and whether we should not do our best to check these irregularities in the Corporation of Calcutta.

With these words I oppose the amendment.

Maulvi ABUL KASEM: I rise to oppose the motion for the recommitment of the Bill to the Select Committee. I think the motion is not a straightforward one. My friends who have tabled this motion and those who have supported it have used arguments more or less to the effect that the Bill should be dropped rather than that it should be reconsidered by the Select Committee. The proper thing for them would have been to put in a motion (and I think it is the parliamentary practice) to the effect that the consideration of the Bill be postponed *sine die*, but they have not done so. They have come forward with a motion that it should be recommitted to the Select Committee and reconsidered by them. One of the arguments used in its favour was that if it went again to the Select Committee, they would have more materials to consider and they would have new and fresh reasons to come to a decision and would give them an opportunity to propitiate the Corporation if a conference was held with them to hear what they had got to say. I have been told that it is one of the rules of advocacy, when you have a bad case, to abuse your opponent. My friend Mr. B. C. Chatterjee, an eminent lawyer, has followed that rule, and he has come forward to abuse the Minister and the Government on the ground that the Corporation is being condemned without a hearing. He was very eloquent and with an eloquence and persistence worthy of a lawyer he said that the Corporation was not given a chance of hearing. I think my friend Khan Bahadur Momin gave a definite reply to that argument when he said

that the Corporation had an opportunity of offering their opinion and stating their own facts. True it is, officially the Corporation has refused to express any opinion on the provisions of the Bill. True it is that the Corporation has refused to meet the members of the Select Committee and discuss, probably because it thought that its dignity would be hurt, but it is also a fact that the Corporation authorities have taken every possible step to place their case before the Government by their publicity methods in the best possible manner, and the press and other means have been used to do that. But I am afraid they have not been able to convince an ordinary unprejudiced man in their favour. Mr. Narendra Kumar Basu, who is always very eloquent, has done a little injustice to one of our friends Khan Bahadur Momin. He said "here is a man who poses as a leader of his community or party and who has been a Commissioner of a Division who says that the Muhammadans in a body will not support Mr. B. C. Chatterjee or any of these amendments." Lawyers have certain privileges, at least in practice, of twisting facts to their advantage whether they are true or not, but it is going too far if a member of the Legislative Council goes out of his way to impute to Khan Bahadur Momin what he has never said. If I understand English language correctly, what he said was that the Muhammadans were not likely to be influenced by the sophisticated arguments of Mr. B. C. Chatterjee or by the importunities of the Government whips on the other side. They would decide the question on its own merit. Mr. Narendra Kumar Basu is a very eminent lawyer and has naturally cited judicial opinion in favour of his contention that the Bill should be recommitted to the Select Committee. I am not only an ignorant man, but a layman as well. I have taken a note from his chapter. He has read from a book of some eminent jurist whether Lord Chancellor or of the Lord Chief Justice I do not know, that it is all wrong to give a nominal authority to one man and the real authority to a man behind. I say it is exactly the situation in the Corporation. In the Corporation the nominal responsibility rests with the members of the Corporation, but the real authority actually rests with a body of men who sit in a spacious and magnificent hall in Treatre Road, Calcutta, and everybody knows that. We have been told that it is wrong to penalise a man simply because he has committed a simple offence by asking his countrymen not to buy British goods. Not being a lawyer I cannot say whether it is against law or not, but I think no ordinances have been passed either by the Government of Bengal or the Government of India which say that anybody should be penalised for that. The real fact remains that it is not penalising anybody but simply preventing the putting of a premium on lawlessness. That is how I understand it. It is not a fact that the Bill provides that anybody should lose his means of livelihood, but this craze for going to jails which is infused into our rising generations, the students and others, should be checked in the best interest of the country, whether it is in the interest of the Local Self-Government or the Finance

Department I do not care. There is no denying the facts. Face facts as they are. Sir, there is no denying the fact—you must face facts as they are—that a large number of young men are induced to break laws, small or big, simply to qualify themselves for employment under the Corporation, and it has become a scandal. Sir, to prevent this I would appeal to my friends if they have the interest of the country at heart and if they are not going to play to the gallery, to say whether it is just, fair or reasonable for anybody to spoil young men and ruin their lives by such actions. We have already by our conduct and in order to secure our own ends done a good deal to bring about the ruin and loss of career of a large number of young Bengalees and to-day, speaking about inter-provincial competition, both educationally and mentally, Bengal stands very low even for public services and the reason more or less is that they are given inducements to divert their time and energy to doing things which they ought not to do. For this reason—for the protection of my juvenile friends and for preventing young men from becoming convicts—I welcome this measure, which is a preventive measure, and on this ground I oppose the motion. I congratulate my friend Mr. Samad on his ingenuity and shrewdness in finding out the reason and the motive for bringing forward this Bill. He says because the rate-payers returned a majority of Congressmen, therefore, the Minister wanted to put a knife at the throat of the Corporation. Sir, if that were so, the Bill would have taken a very different form from what it has. Sir, this Bill is not at all in any way offensive to anybody. In the first place, there are some financial provisions which will prevent the spending of money by individuals and the Corporation in a reckless manner and Dr. Sen Gupta supports this part of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: No. I do not.

Maulvi ABUL KASEM: Then, Sir, the provision about the employment of dangerous convicts as teachers or in other capacities. The question is that nobody wants the employment of such persons and, as stated by Reverend Nag, the Corporation have introduced certain changes about recruitment of their employees and are mending matters. Therefore, admittedly they did something wrong and that is not a matter in which such a storm should be raised as has been done in the case of this Bill. The reason is only this, that at this time of economic distress and at this dull season when there is dullness everywhere and nothing very exciting going on, something must be done and Lieutenant Bijoy Prasad Singh Roy has provided the public agitators with a weapon to do so. There is nothing in the Bill to shout about, but it has been taken advantage of here by agitators who are crying that democracy is in danger, that an autonomous body is being dragged down and all sorts of things as if nationalism itself is going to be killed because certain convicts will not be allowed to be employed by the Corporation. I think

that is the long and short of it, and I think sufficient has been said on the matter, and I would ask my friends to put their hand on their hearts and say whether we are right or wrong.

Babu JITENDRALAL BANNERJEE: Sir, the sort of argument, irrelevant, uncharitable and wrong, which has just been used by Mr. Abul Kasem makes it difficult for men like me to support the line of action which they uphold. As a matter of fact, I am in sympathy with him so far as the general question is concerned, but his argument does not appeal to me. I take the strongest exception to his statement that our youngmen go to jail for the purpose of qualifying themselves for Corporation and other appointments. Well, Sir, I have been to jail myself; and I should be false to every instinct of my manhood, to every tradition of my life, if I did not protest in the strongest language possible against such uncharitable statements as that. I can assure Mr. Kasem and people like him that going to jail is not altogether a pleasure: if it were, they would have shared in that pleasure themselves. People do not go to jail for the purpose of qualifying themselves either for Corporation or other employments: they go there from an inner urge of nature which Mr. Kasem and people like him will always fail to appreciate. It is a misfortune that a good case should be clouded by irrelevant and feeble arguments like this. However, this is only by the way; and I shall now proceed to deal with the question itself.

Mr. N. K. Basu is too good a master of logic to hoodwink himself with the sophistries with which he seeks sometimes to cloud the issues before the House. Therefore, at the tail-end of his speech, he let out the interesting fact that, so far as recommitment was concerned, there was nothing to be gained by it and the proposal had no legs to stand upon. For the frankness of this admission I wish to thank Mr. Basu. Sir, when I came to the Council I came with an open mind—a perfect *tabula rasa*—as regards the motion for recommitment. I was prepared to be convinced by argument, if any argument could be adduced in support of the motion; and I was quite prepared to vote accordingly. Sir, I have listened to a variety of speeches, sometimes with interest, sometimes with a feeling of boredom which could not be suppressed; and it is my considerate opinion that no case has been made out, not a shred of argument has been adduced, for supporting this recommitment motion, of the futility of which I am convinced in spite of the impassioned oratory of Mr. B. C. Chatterjee, passion which is rather unwonted with him. I shall now refer to some of the arguments that have been adduced. Mr. Shanti Shekhareswar Ray's argument is curious but not uncharacteristic. He thinks that the Council has been flouted by the Corporation, an offence for which the Corporation ought to have been but has not been punished. And he wants that the Bill should be recommitted in order that the Select Committee may again invite the Corporation, and if the Corporation

should flout the Council once again, it should be hanged, drawn and quartered. Sir, Mr. Basu has already anticipated my quotation; but it was one of the greatest lawyers of England, Lord Eldon, I believe, who said that a Corporation had neither a body to be kicked nor a soul to be cursed. Evidently, Mr. Shanti Shekhareswar Ray thinks otherwise he thinks that the Calcutta Corporation stands on a different footing. Surely, Sir, Mr. Ray's love for the Corporation is a love which is like the peace of God—it passeth understanding. Sir, Mr. P. Banerji was the sponsor of the recommitment motion. He spoke in a language which I thought that I knew; but somehow or other I failed to understand what he said. I do not blame Mr. Banerji at all—perhaps it was all the fault of my limited understanding. As regards Dr. Naresh Chandra Sen Gupta, he is nothing if not original. He seemed to imply that he could not support the Bill in its present form, but if it could be given a retrospective effect, there would have been some virtue in it. Sir, it was generally considered that the worst feature of the Bill was the retrospective effect which was sought to be given to some of its provisions; and these provisions have accordingly been purged away by the diligent labours of the Select Committee. We come to Mr. Chatterjee last of all. He thinks that the Corporation has never been given any opportunity of explaining its position. I do not understand what he means. The Corporation was given every opportunity during the last one year to vindicate itself and its doings, if it were possible to do so. This piece of legislation was not manufactured in the course of a night, as my friend Mr. Samad seems to suggest. He says that the Bill was conceived, drafted and printed and everything made ready on the fateful night of the 31st March in order that it might be sprung upon the people on the blessed occasion of All Fools' Day. That is an argument which is absurd upon the face of it. The origin of the thing goes much further back. It began with the Minister's letter to the Corporation which was in June, 1932. More than a year has elapsed since then: the Corporation knew what was going to be done, what charges were being made against it; and it had ample opportunity to refute those charges if it had cared to do so. Opportunity was given, opportunity was wasted. The very offer of the opportunity was treated as an insult and flung back, not only in the face of Government but also in the face of the Legislative Council. The Corporation has insulted not simply the Government but also the Legislative Council. I do not wish to vindicate the Legislative Council. We have been asked by a scion of riparian nobility to take heed of the day of judgment—the day of election. Sir, we shall take note of his warning; and I assure all concerned that we shall face our electors upon this particular measure and the support that we extend to the Bill which the Minister has had the courage to bring forward. We shall seek the suffrage of the electors of Bengal upon this record if upon nothing else.

Mr. SHANTI SHEKHARESWAR RAY: Will Mr. Bannerjee resign his seat and seek re-election?

Babu JITENDRALAL BANNERJEE: No, Sir. I don't care to resign, I don't feel called upon to resign. I did not come here by the sufferance of the Congress, but after fighting with the Congress. My position is very different from that of Mr. Shanti Shekhareswar Ray and his friends.

My contention, so far as the Bill itself is concerned, is that it is a very modest measure. My complaint, if any, is that it does not go far enough and perhaps it will fail to achieve its object. The Bill provides for a check of accounts: but that is not enough. If there had been a provision for check of work, it would have been something.

I do not care for all the provisions of the Bill, and, as I have said before, I have objection to some of the political clauses. I cannot understand why a man guilty of theft or dacoity should be debarred from employment only for five years, whereas a man convicted of sedition should be debarred for ever. Why this invidious distinction? But these are questions of detail; they can be altered even now on the floor of the House, if the majority of the House so desire. But apart from such question of detail, so far as the broad features of the Bill are concerned, they are modest, they are reasonable, they are unexceptionable. I shall go further and say that the Bill does not introduce a single new principle. It simply carries to their logical conclusion some of the principles underlying the existing Act. The Bill seeks to fill, and does not fill adequately, some of the lacunæ that exist in the provisions of the Act. There are only two parts of the Bill that have been touched. One is as regards employment. Now, what is the position? If I had thought that the Corporation were perfectly independent in the matter of making appointments and the Bill introduced a new principle taking away that right, there might have been reasons for delay and a case for reconsideration. But, as it is, what do we find? There are limiting conditions for appointment in the Act itself: for instance, the Corporation cannot employ a man who is heavily in debt. Whatever the nature or extent of the limit may be, that certainly is a limiting condition; it is a part of the structure of the Act. And what does the amending Bill do? It only carries the principle a little further. It says that people, who are convicted of certain offences and sent to jail, shall be ineligible for appointment, not permanently but for a certain number of years. Then take the question of audit, where the position of Government is far stronger, in fact unassailable. Even now under certain sections of the Act—sections 121 to 123 of the Act—Government can appoint auditors, and it does appoint auditors. These auditors have every power and the fullest authority to examine the proceedings and accounts of the Corporation; and if they make any recommendations the Corporation

are bound to carry them out. But suppose the Corporation refuse to give effect to these recommendations—what is to be done? How are the provisions to be made effective? There is a distinguished character in one of Shakespeare's plays who boasted that "he could call spirit from the vasty deep." The natural retort was "But what if they refused to come?" Such was the position of the Government with reference to the Corporation. That was the position of the Government also. The Government appoint auditors, and the auditors submit their report. The report is meant to be acted upon; but suppose the Corporation refuse to act upon it, what is the result? Nothing. What is the Government to do? They are faced with a blank wall. It is this defect which the Bill seeks to remedy, and I say that it is a measure which was long overdue. And I say to the Hon'ble Minister once again that, so far from undoing the work of Sir Surendra Nath Banerjea, he will only be carrying out the work of Sir Surendra Nath Banerjea to its natural and inevitable conclusion. Sir, in the course of these discussions, the name of Sir Surendra Nath Banerjea has often been taken, here as well as elsewhere. I have more claim than most people to speak of Sir Surendra Nath Banerjea, more claim than most people either inside or outside this Council. I had known him intimately—not simply in the bustle and the tumult of public life but in the close intimacy of his day-to-day private life. I had known him intimately, as a colleague in the sphere of academic activities; and as a humble follower in the sphere of political life: and I can say, on behalf of the spirit of the dead master that, had he been alive to-day, he would have welcomed these new provisions with an open and rejoicing heart. It is idle to contend that there is nothing in the Corporation which does not require drastic remedy. Illegal expenditure is there a matter of daily and hourly occurrence. I shall give you a very recent and concrete instance. Only recently tenders were called for the supply of a certain amount of channelling stone and it was specified that the stone to be supplied should be Chunar stone. The lowest tender was given by a man who had been supplying these materials for a number of years and he tendered for Chunar stone as required. There was a difference of four rupees per ton in the rate between the lowest and the highest tenders, which highest tender again was, for Puri stone, a far inferior article. Besides, it was not in accordance with the specifications, and, therefore, ought to have been rejected off-hand. Now, what happened? Half the contract was given to this wrong man. Why? Because a certain political boss was behind him. The amending Bill will make this kind of things impossible. In future, when an illegal expenditure has to be sanctioned, the members of the Corporation will think thrice, nay thirty times before they sanction it. Therefore, not in the interest of a vested body like the Calcutta Corporation but in the interests of the ratepayers of the city. I beg to give my cordial support to the Bill.

(The Council was then adjourned for ten minutes.)

Mr. SYAMAPROSAD MOOKERJEE: Sir, after the torrential eloquence of the previous speaker, I rise to speak on this motion with a considerable amount of diffidence. But, Sir, on an occasion like this I do not think I should give a silent vote in the decision of the amendment which is now being considered by the House. Sir, I regard the present amending Bill as one of the most mischievous measures which have ever been attempted to be placed on the statute book, and when I use that word mischievous, I use it with deliberation and in full remembrance of the fact that to this House belongs the credit of placing on the statute book several repressive measures during the last two or three years which have seriously encroached upon the liberties and rights of the subjects. Sir, I do not intend to-day to deal with the detailed provisions of the Bill—objectionable no doubt they are—and attention to some of which has already been drawn by several members before me. But I do want to say this, that the policy underlying this measure is not a *bona fide* reform of civic administration, but it is something deeper than that. It is indeed a policy of complete, of abject, of a most inglorious surrender on the part of the present Ministry of Local Self-Government to reactionery forces, both inside and outside the Government which have been at work for some time past in order to see that the Corporation of Calcutta is humiliated and crippled of its powers, that it is deprived of the autonomy and the privileges which it enjoys. Sir, my friend, Mr. Narendra Kumar Basu, has demonstrated that it is indeed a policy of vindicativeness, as unworthy of any Ministry responsible to any House as it is unwarranted by the circumstances of the case.

Sir, we are considering to-day an amendment with regard to the recommitment of the Bill, and I say there are weighty reasons why that amendment should be accepted by the House. There is not the least doubt that a big institution like the Calcutta Corporation cannot be managed in the way in which it is proposed to be managed by the present Ministry of Local Self-Government. I desire to give my whole-hearted support to the point of view which has been so ably and eloquently expressed by my friend Mr. B. C. Chatterjee. With reference to the facts of the case, so far as I have been able to gather, I believe I would be able to convince the House that the Corporation of Calcutta has not been given sufficient opportunity to vindicate itself against the charges brought against it. What are the facts. Mr. Jitendralal Bannerjee—to whom I shall refer later on before I resume my seat, although it will not be any pleasure to me to refer to him—drew our attention to the two letters which were addressed to the Corporation by the Local Self-Government Department in June or July, 1932. I presume those letters contained several charges and asked the Corporation to deal with certain specific points raised therein. It is not the case that the Corporation

refused to reply to these letters. So far as I have been able to gather, replies were sent to Government. Whether the replies were considered satisfactory or not by Government I cannot say but replies were certainly sent. The Government, after it felt that it was its duty to introduce legislation for the purpose of ensuring that the affairs of the Corporation improved, should have brought forward the proposals and placed them before the Corporation and asked for its opinion before Government finally made up its mind. This is a most important point which must not be forgotten. Unless something is radically wrong, I cannot believe that any responsible Government will come to a definite conclusion with regard to matters relating to a great, autonomous institution without giving it an opportunity of saying what it desires to say or has to say on the points raised, but that was not done in the present instance. What was the procedure which the Hon'ble Minister adopted? The procedure was that the Bill was introduced into the Council without previously ascertaining the views of the Corporation. The Minister must have felt that he was doing something which was extraordinary in character. So we witnessed the spectacle of the Ministry of Local Self-Government publishing a statement in the columns of the newspapers before even the members of the Council had an opportunity of considering the Bill. We in fact learnt about the attitude of Government not from any statement made by the Minister on the floor of the House but in the columns of the newspaper through a Government communiqué. And, Sir, how apologetic was the tone of that communiqué! How anxious was the Minister to show that no political reasons were compelling him to introduce this legislation! Why this overanxiety to satisfy the public that there was nothing political about the measure? Why these advance protestations? Certainly an opportunity would have occurred to the Minister to formulate his policy on the floor of the House. He did so, because he knew in his heart of hearts that what was being done by him was not being done decently and properly.

Then the Bill came before the Council and it was referred to the Select Committee. It has been said—I disagree entirely with the point of view that has been expressed by my friend Mr. Shanti Shekhareswar Ray—that an invitation was issued by the Select Committee to the Corporation of Calcutta asking them to send three representatives if they so desired. That is mentioned in the report of the Select Committee.

But before I come to that stage, I think the Bill was forwarded to the Corporation by the Government after it was introduced. Reference has already been made by Mr. Momin to this. The Bill was placed before the Corporation. Now, Mr. Momin found fault with the resolution of the Corporation. The greatest fault of the Corporation lay in not having accepted his resolution! (A voice: Undoubtedly). The resolution

which the Corporation passed was this. The Corporation expressed its opinion that the Bill was unnecessary and unjust and then went on to say that it was quite prepared to send representatives who would meet Government, discuss matters with it and demonstrate to it that the Bill was really unacceptable and unworkable. I ask every member of the House what was the sin which the Corporation committed in having passed a resolution of that kind. Government made up its mind without referring the draft Bill to the Corporation at all, and surely the Corporation was entitled to say that so far as its own opinion was concerned, the Bill was unacceptable; at the same time it was quite prepared to discuss matters with Government. If, Sir, the intentions of the Government were *bona fide*, surely such a suggestion would have been accepted, for if the fault lay with anybody, I say it lay more with the Government than with the Corporation. The Hon'ble Minister, I am sorry to use the language, bungled the whole thing in a most miserable way. The Corporation passed that resolution. When the motion for reference to the Select Committee came, before the Council, I think reference was made to that resolution which annoyed the Minister very much, and he said that the matter had already passed the stage of any discussion. That surely was not an attitude which a responsible Minister could be expected to take up.

Then the Bill went to the Select Committee. From there the alleged invitation was issued. The report of the Select Committee says that an invitation was extended to the Corporation. Now, let us look at the wording of the letter which was sent to the Corporation. The letter says:—

"I am directed to say that the Committee will be prepared to give a hearing to three representatives of the Corporation, if the Corporation desires to make any suggestions as to the workability of the detailed provisions. I am to add that it will not be in order to discuss the principles of the Bill which have already been accepted by the Bengal Legislative Council."

What is the tone of this letter? If, Sir, on receipt of this letter couched in such language, the Corporation said: "No, thank you. We are not prepared to discuss things with the Select Committee in the circumstances which you indicate in your letter," are we to say that the Corporation has done something which is open to serious objection? The chief point is that the Corporation was anxious that the principles underlying this Bill should be discussed with Government before the measure was actually placed on the statute book; and if the Corporation was definitely told that the Select Committee was not in a position to discuss the principles of the Bill, but that its representatives might come and show to the members of the Select Committee how the Bill which was thoroughly unworkable in character, could be made

workable, and, if the Corporation refused to accept this invitation—if you call it an invitation—I do not think that there can be any legitimate complaint against it.

Sir, as has been pointed out by Mr. Chatterjee, if the proposal for recommitment is carried, it will give us some time. It is absolutely necessary that this measure must, first of all, be fully and freely discussed between the Government on the one hand and the Corporation on the other. Even now that can be done. Take for instance the question of audit, and surcharge. Well, so far as the detailed rules are concerned, it is to be explored how far these rules can be applied in practice, and surely that is a matter which cannot be discussed on the floor of this House. We here are ignorant of how things are going on in the Corporation, so far as the detailed administration is concerned. This is a matter which must be discussed between the representatives of the Corporation and the representatives of Government. So far as possibility of delay is concerned, I do not think that it really affects the situation, for, as has been pointed out, the Hon'ble Minister has been pleased to agree to the omission of the clauses which proposed to give retrospective effect to some of the provisions of the Bill. Sir, I do not know what policy led the Hon'ble Minister to include those provisions in the original Bill, except that he did so in a vindictive spirit; but I suppose he will still say that he wanted to be helpful. In any event, if we wait for a couple of months more, I do not suppose that any serious consequence is going to happen. After all, so far as the employment of political offenders is concerned, it has been said that their number is only about 30 or 40 out of a total of 5,000. Surely, as far as the possibility of their contributing to the lawlessness of this city during the period is concerned, the Hon'ble Sir Bijoy Prasad Singh Roy can safely leave the matter entirely to his colleague, the Hon'ble Sir William Prentice, and I have no doubt that the latter will see that the activities of these persons do not interfere with the general administration of the city.

Sir, I now come to Mr. Jitendralal Bannerjee's speech. I am afraid I must confess that his speech has not surprised me. It is entirely consistent with the recent policy of Mr. Bannerjee, a policy which made it possible for him to support the Hon'ble Sir William Prentice in the passage of the Terrorist Bill. (Hear! hear!) It seems he has turned a new chapter in his life. We hope the chapter will not prove barren and his labours will bear fruit. We also hope he will remain loyal to his present love and not turn a fresh, a new chapter again or come back to his old position. After all, we cannot forget that in our generation there has been none who, more than Mr. Bannerjee, has contributed to rouse the passions of the youths of Calcutta and of Bengal and sow the seeds of unrest against Government. He is now leaving his past activities behind and proceeding along a new path.

Sir, before I sit down, I should, however, like to enter an emphatic protest against the manner of his reference to the hallowed name of the late Sir Surendranath Banerjea. Mr. Jitendralal Bannerjee should not forget that he is one of those very persons who openly opposed Sir Surendranath and abused him in the evening of his life, in a manner which was unworthy of anyone, especially of a staunch follower as he claims to be. It is most undesirable that we should drag into a debate of this kind the name of a dead person—let us leave the dead alone. If we do so in this case, and do it in the way in which Mr. Bannerjee has done, it will be an insult to Sir Surendranath's memory. I feel sure, Sir, that if Sir Surendranath were alive to-day, he would have been ashamed not only of the Hon'ble Minister who has prided himself on this measure but also of Mr. Jitendralal Bannerjee, his alleged follower, who now finds it possible to support the Bill.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I regret that during the last few hours of debate many of us have carried it to a pitch which showed that it was not a debate as to whether the Corporation Bill should be passed or not; it seemed rather a debate of no-confidence against the Minister or a debate of abuses and personal reflections against other members of this House. I very much regret the tone of the debate. With a view to get the Bill recommitted, and that too in a hurry, some people have not hesitated to attribute personal motives, which should not have been done. I think that in judging a measure of this character, which is of very far-reaching importance—not only to Government but to all self-governing bodies—one should expect the Legislature to carry on the debate in a manner as would avoid all personal reflections and confine itself to the merits of the question. I very much regret, Sir, that some of my friends have even gone to the length of delving into past history of some men. I very much regret that Mr. Narendra Kumar Basu has gone to the length of reminding Mr. Momin that he is an ex-Commissioner. The map of life of everyone is public property, and I think that if anyone wants to tar it, he can easily do so.

Sir, at the very outset I must make my position clear. Even at this stage I wish it were possible for the Corporation and the Government to come to an understanding as to how this Bill might be passed, and nobody would be more glad than myself if it could be done. I do feel it is not in the best interests of the country that an institution like the Corporation should be fighting and quarrelling with Government. If it comes to that, it is the Corporation of Calcutta on which the blame should rest. And it is quite in the fitness of things that there should be an understanding between the Government and the Corporation, which is responsible for giving life and vitality to a very large section of the people of this province. Therefore, I may say at once that if it were

possible even at this last stage for the Bengal Legislative Council to show me a way to avoid this complication, I would be the first man to adopt it. (MR. B. C. CHATTERJEE: Now, too late.) But, unfortunately, no definite proposal has yet come in, and I am afraid that at this late hour I should not discuss anything more because we have gone too far. I am, also, afraid that the mover of the motion and the supporters have not discussed the problem from the point of view of constitutional law or the law of nature. (Laughter.) If my friends want the Bill to be recommitted, and again want the Corporation to discuss its principles, I feel that they are putting themselves in a contradictory position. Even if the proposal be accepted that the Bill be recommitted, what would be the effect? Its effect would be that the principles would be accepted by the Legislature and the Select Committee, and, subject to the acceptance of those principles, a workable formula would have to be found by which the Bill could be carried through. I very much regret, Sir, that although the opportunity was given—and given by even a subservient Legislature—to the Calcutta Corporation, that opportunity was not availed of. Then what is the position of this Legislature?

We, the members of the Select Committee, asked the Corporation representatives to discuss and arrive at a workable formula, subject to the acceptance to the principles of the Bill. Two principles only were involved. The first was that the Corporation should not employ people who have been convicted of certain political offences or offences involving moral turpitude, except under scrutiny by Government. The second principle involved in this Bill is that if there is any illegal or irregular expenditure, or expenditure which is not justifiable by the rules and regulations of the Corporation, the sanction of Government should be obtained to such expenditure and that the amount involved should be reimbursed by the Corporation. If these are the two principles involved in the Bill, then I do not see why the Corporation should have refused to send their representatives to appear before the Select Committee to discuss matters in detail in order to find out a workable formula, or even to put the Bill in a new form, if it was possible, subject to the acceptance of the principles I have mentioned. My friends who have argued the case of the Corporation have put it very strongly. If it is not desired that people who have been convicted of crimes of a heinous nature should be allowed to be employed by the Corporation, it was certainly open to the Corporation to come forward with concrete proposals.

Sir, I do not say that the Bill is a perfect one: in fact, there are many imperfections in it. But kindly consider the position of the Select Committee which had not the assistance of the Corporation in considering a measure of this magnitude which vitally affects the interests of the Corporation and which has certainly given rise to a good deal of agitation and controversy in the country. Sir, if the Select Committee had the

assistance of the Calcutta Corporation, a matter to which I have already referred, and if the Corporation had been wise enough to send its representatives to the Select Committee, I think it would have been possible for the Select Committee to do much better than what they have done.

Sir, let us consider the other principle involved. My friend, Dr. Naresh Chandra Sen Gupta, has attached too much importance to the political aspect of the question, although I do not myself attach the least importance to it. I consider the other aspects of the question to be of far-reaching importance. Supposing this Bill is passed—as is very likely—I would once again ask my friends, who have defended the Corporation, to tell me why is it that the Corporation refused to be represented before the Select Committee in regard to the matter of audit and other matters. The Corporation migh have refused the invitation in regard to the matter of the employment of political offenders. I feel, Sir, that the Corporation has, on the whole, behaved itself in a manner which has put us into a difficult situation: We are, therefore, faced with the alternative of either rejecting the principles which the House has already accepted or altogether preventing the Bill from being put into the statute book. I am afraid that the time has come when we should decide whether the House accepts the two principles of the Bill, which I have already enumerated. I want to make my position clear. Although I admit that the Bill cannot claim perfection, yet in the circumstances I have mentioned the Select Committee could not have presented a better Bill before the House. If it were possible for this House through that machinery to get more facts, possibly it could have got them. But as it is, we have accepted the principle and I feel that there is no other alternative for this House but to stick to that principle and subject the Bill to detailed discussions on those clauses as it might pick up at the stage the Bill is taken up for consideration. I feel, therefore, that so far as the Bill is concerned it would be much better to deal with it on its merits, and not with the question as to whether or not we should accept the principle involved in the motions for recommittal. As I have already said, the only course which is open to us is to stick to the principle which was accepted at the stage when the House sent the Bill to Select Committee. I have not yet heard that there is any other principle except that, people convicted of certain crimes should not be taken in in the Corporation as its employees. Well, it may be argued that certain forms of crime should be excluded from the category of the crimes which lead to disqualification; but that may be discussed at the consideration stage, and if necessary a new section might be later on inserted when the Bill is judged purely on its merits. It may be that a certain number of men might be convicted of heinous crimes—crimes which revolt the sense of human society—and the question is whether such men should be allowed to come into the Corporation service or not—that also should be considered. I say that so far as the Bill is concerned

all that it says is that it would not be a perpetual bar to their appointment, but it is only a question of their being appointed subject to the sanction of Government. My friends Mr. B. C. Chatterjee and Jitendralal Bannerjee have recently come back from England, and I do not know how things are proceeding there, but my impression is that if not next year, at least in the course of a year and a half the whole system of constitutional government of our province will be radically changed. After that a Minister responsible to the Legislature will exercise his power of controlling appointments in the Calcutta Corporation and that control will mean simply that men who have been convicted of a certain type of heinous crime will not be permitted to enter the service of the Corporation. If that is so, I do not know why you are asking that he should not have that power now. You may say that the present Government is not responsible to this Legislature, but has not this House even now got the right to bring in a motion of censure in case it is found that under the cloak of this Bill Government is misusing its power or exercising it in a manner which is not worthy of the dignity of the Government? I, therefore, take it that so far as the first principle is concerned, in view of the fact that the House has already accepted the principle of the Bill and in view of the fact that there is no other opinion before this House which can justify us to go back on that principle, I feel that this House has no other alternative but to stick to the principle which it recognised when it agreed to refer the Bill to the Select Committee.

As to the second principle, what is there objectionable in it? It means nothing more than that certain provisions should be made to ensure the proper financial administration of a local body. Sir, I am as much anxious as anybody else that the local bodies should be autonomous in their administration, but I have already made my position absolutely clear in my speech when the Bill was introduced, that even the local bodies at the present stage of their development require a good deal of control as regards the administration of their finances. I say, being connected with the administration of several local bodies for years past, that it would be to the interest of the people, to the interest of the local bodies themselves and of Government, and in fact, of everybody concerned that there should be some check on these authorities in this matter. Sir, all men are human and they cannot claim that they will always be able to observe financial purity, but if that financial purity is not observed, we must lay down canons and rules to guide these local bodies, and if they are violated there should be some authority to check those violations. At present there is such a provision in the Bengal Municipal Act but the Calcutta Municipal Act has none, and I feel that it is the opinion—an opinion with which I fully agree—not only of those who are outside the Corporation, but also of those who are rate-payers of Calcutta, as well as of certain members of the Calcutta Corporation, that

it is not a day too soon when such a provision should be enacted. If that is so, what is our justification for recommitting the Bill in so far as this part of the Bill is concerned? If the Bill is divided into two parts, it is open to the House to reject the first part and carry on with the second. If it is the opinion of those who are connected with the financial administration of the Corporation that they should pass some legislation on these lines, why should we stand in their way if that legislation is brought forward not a day too soon? I feel, therefore, that the present time is one for refusing the recommittal motion at this stage and for discussing the Bill on its merits.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 1st September, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 1st September, 1933, at 3 p.m.

Present.

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 109 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Quinine sold by post offices in the Kishoreganj subdivision, Mymensingh.

*141. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) what quantities of quinine were sold during each of the months of May and June, 1933, by the post offices of Sararchar and Katiadi in the subdivision of Kishoreganj in Mymensingh;

(*ii*) whether it is a fact that the said post offices get their supplies of quinine from the Presidency Jail at intervals of 6 to 15 days and that these are exhausted in a few hours and that the people are consequently unable to purchase any quinine from the said post offices during the interval; and

(*iii*) whether they are aware that almost cent. per cent. of the population of the areas under the aforesaid post offices are affected by malaria of a serious and epidemic type and that the demand for quinine from those post offices is many times more than the actual supply through them?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Minister be pleased to state why the aforesaid post offices are not allowed to sell quinine according to the full demand for the same?

(*c*) Is it not a fact that the Government have got a large stock of quinine?

(*d*) Are the Government considering the desirability of taking steps so that all post offices in malaria-affected areas get a regular and continuous supply of quinine through the post offices?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*)(*i*) A statement is laid on the table.

(*ii*) They get supplies normally at intervals of 10 days. These were reported recently to be exhausted within a week.

(*iii*) It is a fact that the demand increased owing to the outbreak of an epidemic of malaria.

(*b*) and (*d*) The member is presumed to mean, why has the available supply of quinine not been larger. No complaints had been received from the public before the present epidemic and the quinine imprest was therefore considered to be adequate. Steps have recently been taken to double the imprest of all post offices in Mymensingh.

(*c*) The Government of Bengal have a large stock of quinine powder mainly in crude form, but the supply of tablets is limited to the amount which can be manufactured. There is a shortage of febrifuge and febrifuge tablets because febrifuge is produced only as a by-product in the manufacture of quinine: the supply is therefore limited and not sufficient to meet the present demand for febrifuge.

Statement referred to in the reply to starred question No. 141 (a) (i).

Quinine sold.	May, 1933.	June, 1933.
Sararchar	200 tubes	350 tubes.
Katiadi	70 „	150 „

Babu KHETTER MOHAN RAY: With reference to (*c*), why has not the manufacture of quinine been increased in view of the epidemic of malaria in several districts?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Steps have already been taken to increase the manufacture.

Babu HEM CHANDRA ROY CHOUDHURI: In view of the fact that the quinine sold in the month of June, 1933, is almost double the amount sold in May, does the Hon'ble Minister intend to investigate the causes of the outbreak of epidemic of malaria and try to check it, if possible?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Steps have already been taken.

Maulvi SYED MAJID BAKSH: When did the Hon'ble Member come to know of the outbreak of malaria?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Babu HEM CHANDRA ROY CHOUDHURI: What was the result of his investigation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is under consideration, and it would be premature to disclose it.

Quinine supply to the district board of Mymensingh.

*142. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) what is the total quantity of quinine sold to the district board of Mymensingh and what is the quantity supplied free during 1933-34 so far, and what quantity out of the same has been already spent; and

(*ii*) what were the quantities sold, and supplied free, respectively, last year in 1932-33 to the said district board of Mymensingh?

(*b*) Is the Hon'ble Minister aware that the said district board will require a far larger supply of quinine this year owing to the very serious and widespread outbreak of malaria in the district of Mymensingh?

(*c*) Is the Hon'ble Minister also aware that most of the district board dispensaries in Mymensingh are receiving a poor supply of quinine and repeated complaints are being made to the district board by the doctors in charge and the public?

(*d*) What steps, if any, have the Government taken or propose taking to keep the district board well stocked with quinine to meet all emergencies?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) A statement is laid on the table.

(*b*) This may be presumed to be probable.

(*c*) The dispensaries are reported to have been given emergent supplies. Government have no information as to such complaints.

(*d*) Government have made special grants of quinine. They cannot, however, assume the responsibility for keeping any district board supplied with quinine in the manner suggested.

Statement referred to in the reply to starred question No. 142 (a).

(i) 1933-34.

	Quantity sold to district board.	Quantity supplied free up to August 23.	Total.	Quantity spent up to August 10.
	lbs.	lbs.	lbs.	lbs.
Quinine	229	200	429	359
Cinchona	932	500	1,432	1,182
Total ..	1,161	700	1,861	1,541

(ii) 1932-33.

	Quantity sold to district board.	Quantity supplied free.	Total.
	lbs.	lbs.	lbs.
Quinine	185	..	185
Cinchona	427	250	677
Total ..	612	250	862

Repair of roads by Tippera district board.

***143. Babu KHETTER MOHAN RAY:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that the district board of Tippera have ceased to repair, for some years, five or six roads under their control in or near about the town of Comilla;

(*ii*) that the people of the district in general, and particularly the inhabitants of the town of Comilla, have been put to inconvenience and suffering owing to the condition of the roads;

(*iii*) that the roads in question are important roads and one of them is the Railway approach road to the Comilla Railway station; and

(*iv*) that these roads are full of big ruts and holes in which pools are formed in the rains and are impassable in the rains for the pedestrians and the wheeled vehicles?

(*b*) Have the Government received any representation on the subject from the District Magistrate of Tippera, the district board and the Comilla Municipality or any of them?

(*c*) If the answer to (*b*) is in the affirmative, what steps, if any, are being taken in the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*)(*i*) For the past three seasons the district board have carried out no repairs on certain roads within or just outside municipal limits.

(*ii*) They have been put to inconvenience.

(*iii*) Yes.

(*iv*) Their condition is reported to be bad: they are full of pot-holes where water accumulates: but it is understood that they are not impassable.

(*b*) No.

(*c*) Does not arise.

Babu KHETTER MOHAN RAY: Have the Government enquired why the District Board of Tippera have ceased to repair the roads?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The district board think that the duty of repairing these roads lies with the municipality.

Babu KHETTER MOHAN RAY: Are not these roads under the control of the district boards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, they are for the time being.

Babu KHETTER MOHAN RAY: Have the Government taken any steps to decide the matter of controversy which has arisen between the District Board and the Municipality of Comilla?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Commissioner has made inquiries on the subject.

Personnel of the Provincial Road Board.

*144. **Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state the personnel of the Provincial Road Board of Bengal?

(*b*) How many meetings of the Road Board were held during the ear 1932 and up to July, 1933, and where?

(*c*) Will the Hon'ble Minister be pleased to lay on the table a ummary of the proceedings of the meetings of the Road Board held p to this time?

(*d*) What is the total contribution of the Central Road Board to he Provincial Road Board of Bengal and how has the money been xpended?

(*e*) What are the amounts of contribution to the Dacca and Narayanganj municipalities and Dacca and Mymensingh district oards in the year 1933?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) A statement s laid on the table.

(*b*) Nine meetings were held up to July, 1933, of which two were eld in 1932. All the meetings were held in Writers' Buildings, alcutta.

(*c*) The proceedings are voluminous and a summary of them could ot be prepared without an expenditure of time and energy which ould not in the opinion of Government be justified.

(*d*) The total contribution received from the Central Road Fund mounts to Rs. 41,14,151. A statement showing the allotments made p to date from the Road Development Fund is placed on the table.

(*e*) No contribution has yet been made in the year 1933 to the ocal bodies referred to.

tatement referred to in the reply to starred question No. 144 (a).

List of Members of the Provincial Road Board.

1. The Hon'ble Minister in charge of the Local Self-Government Department, *President*.
2. Secretary to the Government of Bengal, Finance Department.
3. Secretary to the Government of Bengal, Public Works Department.
4. Secretary to the Government of Bengal, Local Self-Government Department.
5. Chief Engineer, Public Works Department.
6. Rai Keshab Chandra Banarji Bahadur, M.L.C., Chairman, Dacca district board.
7. Raja Moni Loll Singh Roy, C.I.E., Chairman, Burdwan district board.

8. Maulvi Jalaluddin Ahmad, Chairman, Chittagong district board.

9. Maulvi Syed Nausher Ali, M.L.C., Chairman, Jessore district board.

10. Sir Walter Lancelot Travers, KT., C.I.E., O.B.E., M.L.C.

11. Rai A. C. Banerjee Bahadur, representative of the Bengal National Chamber of Commerce.

12. Mr. H. H. Burn, representative of the Bengal Chamber of Commerce.

13. Mr. H. G. Cooper, representative of the Indian Roads and Transport Development Association.

14. Mr. D. H. Keelan, Deputy Chief Commercial Manager, East Indian Railway, representative of the Railways in Western Bengal.

15. Colonel F. M. Leslie, V.D., representative of the Automobile Association of Bengal.

16. The Traffic Manager, Eastern Bengal Railway, ex-officio representative of Railways in Eastern Bengal.

17. Mr. A. H. C. Rostron, representative of the Motor Industries Association.

Statement referred to in the reply to starred question No. 144 (d), showing the allotment made from the Road Development Fund.

Name of project.	1930-31.	1931-32.	1932-33.	1933-34.	Total.
	Rs.	Rs.	Rs.	Rs.	Rs.
Grand Trunk Road ..	1,99,888	4,42,292	2,30,050	6,500	8,78,730
Calcutta-Jessore Road ..	70,000	2,50,000	1,60,000	..	4,80,000
Diamond Harbour Road ..	1,70,000	2,75,000	1,76,000	3,000	6,24,000
Pabna-Ishurdi Road ..	1,113	..	6,199	1,00,000	1,07,312
Mainamati-Barkanta Road	..	1,30,000	1,05,000	42,400	2,77,400
Goalpara Road ..	..	..	1,00,000	1,50,000	2,50,000
Mymensingh-Tangail Road	..	..	50,000	..	50,000
Dacca-Narayanganj Road	..	..	1,05,000	..	1,05,000
Magura-Jhenida Road ..	..	..	1,00,000	..	1,00,000
Total ..	4,41,001	10,97,292	10,32,249	3,01,900	28,72,442

Rai Bahadur SATYENDRA KUMAR DAS: What has become of the surplus balance of about Rs. 13,00,000 still lying undisposed of?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There are schemes against that. The work is going on.

Babu KHETTER MOHAN RAY: With regard to the constitutio of a Provincial Road Board, has the Chittagong Division bee represented in it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, there is th Chairman of the Chittagong District Board in the Road Board.

Maulvi SYED MAJID BAKSH: With regard to No. 10 in th statement, is the Hon'ble Minister aware that Sir William Travers lef the shores of India about two years ago?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Is the hon'bl member aware that he has already come back? (Laughter.)

Babu SATYA KINKAR SAHANA: Why in the list of projects, n road in Western Bengal is mentioned?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Grand Trunl Road is in Western Bengal. The Calcutta-Jessore Road, the Diamonc Harbour Road, the Ghosepara Road and Magura Road are in Westerr Bengal.

MUNINDRA DEB RAI MAHASAI: With regard to the statement, why has not the Burdwan-Arambagh Road been included in the list?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The road has been included in the five years' list, but the work has not yet commenced. Therefore, it is not shown here.

Faridpur Municipality.

***145. Babu AMULYADHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether there is any elected Commissioner of the scheduled castes in the Faridpur Municipality; and

(*ii*) whether any member of the scheduled castes has been nominated to that municipality?

(*b*) Is the Hon'ble Minister aware that besides other qualified candidates there are a number of lawyers belonging to the scheduled castes paying rates who are residents of the Faridpur Municipality?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) As the final list of scheduled castes has not yet been published Government are not in a position to give the information desired.

Babu AMULYADHAN RAY: According to the present list, has any member from the scheduled caste been nominated to the Faridpur Municipality?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is no list of scheduled castes at present.

Babu AMULYADHAN RAY: Then where is the list of scheduled castes?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is under preparation.

Mr. P. N. GUHA: Is it not a fact that a list of the scheduled castes is appended to the White Paper?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is only a provisional list.

Elections under the new Bengal Municipal Act.

*146. **Babu AMULYADHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) in how many municipalities have there been elections under the new Bengal Municipal Act; and

(*ii*) whether in any municipality any member of the scheduled castes has secured any general seat by election?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, what are the name and caste of the Commissioner or Commissioners and the name of the municipality or municipalities to which they have been elected?

(*c*) Will the Hon'ble Minister be pleased to state whether in every newly-constituted municipality the depressed classes have secured nomination?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Minister be pleased to state the names and castes of the Commissioners of the scheduled castes who have been nominated and the names of the municipalities?

(*e*) Will the Hon'ble Minister be pleased to state the names of the newly-constituted municipalities where the scheduled castes have not been nominated, with their population in those municipalities?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) 51.

(*a*) (*ii*), (*b*), (*d*) and (*e*) The member is referred to the reply to his previous question.

(*c*) No.

Malaria in Tippera.

***147. Babu KHETTER MOHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether he is aware that malaria has been raging virulently in several areas in the district of Tippera; and

(*ii*) whether any representation has been received from the district board of Tippera on the subject of malaria epidemic in that district?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a statement showing for Tippera district the total number of deaths from malaria—

(*i*) in 1932; and

(*ii*) in the months of January, February, March, April, May and June, 1933?

(*c*) Have the Government received any representation from the public of Comilla about the outbreak of malaria epidemic in the district of Tippera urging the Government to take steps to prevent the progress of the disease and also praying for medical aid and quinine to the affected areas?

(*d*) If the answer to (*c*) is in the affirmative, what steps, if any, have been taken by the Government in this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) and (*ii*) The Tippera district board have reported to the Director of Public Health that a malaria epidemic prevails in some villages. It is not believed to be of a virulent type.

(*b*) A statement is laid on the table.

(*c*) No. The Director of Public Health was sent various representations.

(*d*) The member is referred to the reply given to his starred question No. 99 of this session.

Statement referred to in the reply to starred question No. 147 (b).

Year.	Number of deaths from malaria.
1932	... 8,747
1933—	
January	... 942
February	... 716
March	... 736
April	... 721
May, June	Not available.

Babu KHETTER MOHAN RAY: What steps have been taken regarding the supply of medical aid and quinine in the affected areas?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: An extra supply of quinine has been given.

Babu KHETTER MOHAN RAY: Besides the supply of quinine, was any other medical aid given?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Thermal treatment of cholera.

*148. **Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether a petition No. G. 117, dated the 14th November, 1932, was submitted by one Dr. N. K. Chakraverty, of Thermo-Medical Laboratory at Dinajpur, to his department requesting thereby to accept his scheme for thermal treatment of cholera in Bengal?

(*b*) If the reply to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether any reply was given to the said petitioner to his petition? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) Does not arise.

Darjeeling and Private Secretary's Presses.

*149. **Rai Bahadur GOKUL CHAND BURAL:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state what action has been taken on the recommendation of the Bengal Retrenchment Committee, 1932, for the abolition of the Darjeeling and Private Secretary's Presses as well as the post of one Deputy Superintendent in the Bengal Government Press, Alipore?

(*b*) If no action has been taken, what are the reasons therefor?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) and (*b*) It has been decided to retain the Darjeeling Branch Press for so long as Government moves to Darjeeling for two periods in the year. The establishments of the Darjeeling Branch Press and the Private Secretary's Press have been reduced, and the post of Manager, Darjeeling Branch Press, will be abolished with effect from the 31st October, 1933. Charge of the Branch Press will after that date be held by a Deputy Superintendent or an overseer of the Chetla Press.

The post of third Deputy Superintendent of the Bengal Government Press will be replaced by a cheaper post of Assistant Deputy Superintendent as soon as an existing post of Deputy Superintendent is permanently vacated by retirement or otherwise.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Revenue Sale Law.

55. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware—

(*i*) that co-sharer landlords who have paid their shares of revenue of joint estates are often taken by surprise by the report of sales of estates behind their back of which they were not aware before sale;

(*ii*) that landlords generally find it difficult at this time of economic crisis to collect revenue in time; and

(*iii*) that the absence of provision in the Revenue Sale Law for setting aside sale on deposit is causing both the landlords and co-sharer landlords loss and hardship?

(*b*) Is the Hon'ble Member aware that provision for setting aside sale on deposit exists in all sale laws, including the Patni Sale Law, the Public Demands Recovery Act, the Civil Procedure Code, and the Bengal Tenancy Act?

(*c*) Are the Government considering the advisability of introducing legislation at an early date to amend the Revenue Sale Law by providing for the cancellation of revenue sales by deposit within one month?

(*d*) If the answer to (*c*) is in the negative, will the Hon'ble Member be pleased to state the reasons for not bringing the Revenue Sale Law into conformity with the laws mentioned in (*b*)?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) No.

(*ii*) Yes.

(*iii*) No.

(*b*) Yes.

(*c*) No.

(*d*) Because it would result in greater delay in realisation of revenue as the number of defaulters would increase and payment could be deferred till after the sale with impunity, and because the tendency would be to offer lower prices. Further the discretionary power of allowing exemption from sale, which is exercised with due regard to circumstances, is sufficient and amendment of the law is not necessary, and punctuality of payment was one of the conditions of the permanent settlement.

Platforms at the Couripur-Mymensingh station.

56. Maulvi ABDUL HAKIM: (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether it is a fact that at the Mymensingh Railway station there are platforms for Eastern Bengal Railway trains but none for the Assam-Bengal Railway trains?

(*b*) Is the Hon'ble Member aware that the absence of any platform for the Assam-Bengal Railway is causing inconvenience to passengers and particularly lady passengers?

(*c*) Is the Hon'ble Member also aware—

(*i*) that the Couripur-Mymensingh station is one of the biggest railway junctions on the Assam-Bengal Railway;

(*ii*) that there is no platform at the said station;

(*iii*) that in the absence of any platform at the Gouripur-Mymensingh station the passengers have to suffer inconvenience, particularly when the two trains stand side by side; and

(*iv*) that the said station is resorted to by passengers, many of whom are *zamindars* and other respectable men?

(*d*) Are the Government contemplating drawing the attention of the proper authorities to these matters?

(*e*) Is the Hon'ble Member aware that arrangements are made for the provision of wooden steps for the use of passengers, particularly lady passengers, in most stations where there are no platforms?

(*f*) If the answer to (*e*) is in the affirmative, are the Government considering the desirability of taking steps in consultation with the proper authorities to make arrangements for the supply of wooden steps at the Gouripur-Mymensingh station for the use of the passengers and particularly lady passengers?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) A rail level platform, which is the usual type for metre-gauge branch lines of the Mymensingh-Bhairab Bazar Railway standard, has been provided at Mymensingh station for the Assam-Bengal Railway trains. For the Eastern Bengal Railway trains there is one platform 10 inches above rail level and two rail level platforms.

(*b*) Platforms above rail level are admittedly more convenient than platforms at rail level.

(*c*) (*i*) It is an important junction.

(*ii*) Rail level platforms have been provided.

(*iii*) *Vide* reply to (*b*) above.

(*iv*) Yes.

(*d*) No.

(*e*) Yes.

(*f*) Four sets of wooden steps for use of passengers have been available at Gouripur-Mymensingh for several years.

Maulvi ABDUL HAKIM: With reference to (*d*), why are not the Government willing to draw the attention of the proper authorities to this matter?

The Hon'ble Mr. J. A. WOODHEAD: Because Government do not think it necessary to suggest that a raised platform should be provided.

Edible fish oil.

57. Rai Bahadur Dr. HARIDHAN DUTT: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that a large quantity of hardened fish oil is imported into Calcutta and throughout Bengal and sold at a very cheap rate as "Edible hardened fish oil";

(*ii*) that by process of hardening all kinds of marine animal oils of loathsome nature are purified and transformed into an odourless stuff simulating margarine; and

(*iii*) that in Europe and America much objection has been raised against such artificially purified products being introduced as articles of food?

(*b*) Is there any guarantee that this "Edible hardened fish oil" is manufactured only from high grade fish oil?

(*c*) Are the Government considering the desirability of taking steps to check the import of such artificial products—

(*i*) when pushed as articles of food; and

(*ii*) on religious and hygienic grounds?

(*d*) If the answer to (*c*) is in the affirmative, what steps do the Government propose taking in this connection?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Government are aware that increasing quantities of "Edible fish oil" have been imported into Calcutta during the last few years: they have no information as to its sale or as to hardened fish oil.

(*ii*) Government have no information on this point, but the Director of Public Health has arranged to analyse samples if obtainable.

(*iii*) Government have no information.

(*b*) No.

(*c*) Not at present.

(*d*) Does not arise.

Rai Bahadur Dr. HARIDHAN DUTT: With reference to (*ii*), why is the sample not obtainable when it is sold in the market?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I inquired of the Director of Public Health, and he says that it is not obtainable. With much difficulty I believe he has secured some quantity.

Rai Bahadur Dr. HARIDHAN DUTT: Is not the Public Health Department there for watching over these matters?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In Calcutta the work is done by the Corporation.

Rai Bahadur Dr. HARIDHAN DUTT: I am not speaking of Calcutta but of the whole of Bengal.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have no information that it was being sold in this province.

Rai Bahadur Dr. HARIDHAN DUTT: If the Hon'ble Minister had made inquiries of the Calcutta Corporation, he could have got any quantity of this oil long ago.

Mr. PRESIDENT: I cannot allow you to make a speech. What is your question?

Rai Bahadur Dr. HARIDHAN DUTT: Was an inquiry made from the Calcutta Corporation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have already asked the Director of Public Health to find out the position about this edible oil, and I am sure he will put himself in touch with the Corporation.

Teaching staff of the Islamia College, Calcutta.

58. Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) the names of the Professors and Lecturers at present in the Islamia College, Calcutta;

(*ii*) the academical qualifications of each such Professor or Lecturer; and

(*iii*) the rate of pay of each Professor or Lecturer?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 58.

Names of teachers.	Academical qualifications.	Rate of pay per mensem.
I—Professors.		Rs.
1. Mr J. W. Holme (part-time Professor), Professor of English.	M. A. (Liverpool) ..	300 (fixed).
2. Maulvi A. F. M. Abdul Kadir, Professor of Arabic and Persian.	M.A. (Allahabad), Class I, Arabic, Madrasah Final (Calcutta and Punjab).	600* B.E.S.
3. Maulvi Ataul Hakim, Professor of Mathematics.	M.A. (Mathematics, Class I, Arabic, Class II).	420* B.E.S.
4. Maulvi Md. Zahurul Islam, Professor of History.	M.A. (History, Class I), B.L.	380* B.E.S.
5. Babu Sudhansu Kumar Guha Thakurta, Professor of Economics.	M.A. (Economics, 1st in Class I).	380* B.E.S.
6. Maulvi Kazemuddin Ahmad, Professor of Philosophy.	M.A. (Philosophy) ..	420* B.E.S.
7. Maulvi Syed Mozaffaruddm, Professor of Arabic and Persian.	M.A. (Arabic and Persian), Madrasah Final, Nadwa, Lucknow.	340* B.E.S.
8. Babu Narayan Das Basu, Professor of Physics.	M.Sc. (Physics, Class I) ..	380* B.E.S.
9. Dr. Satya Ranjan Das Gupta, Professor of Chemistry.	M.Sc. (Cal.), Dr. Ing. (Darmstadt).	380* B.E.S.
II—Lecturers.		
1. Maulvi Md. Tahir Jamil, Lecturer in English.	M.A. (English, Class II in Group B and Class III in Group A).	(Rs. 150—10—400.) 210
2. Maulvi Quazi Akram Hossain, Lecturer in English.	M.A. (English, Class II) ..	(Ditto.) 180
3. Babu Kamal Krishna Ghose, Lecturer in English.	M.A. (English, Class I) ..	(Ditto.) 290
4. Maulvi Abdul Karim Mandal, Lecturer in Mathematics.	M.A. (Mathematics, Class I)	(Ditto.) 220
5. Maulvi Abdul Majid, Lecturer in Bengali.	M.A. (Indian Vernaculars, Class II).	(Ditto.) 220
6. Maulvi Nazir Ahmed, Lecturer in History.	M.A. (History, Class II) ..	(Ditto.) 180
7. Maulvi Md. Fazlul Haque, Lecturer in Arabic and Persian.	M.A. (Persian, Class I), M.F.	(Ditto.) 210

* Scale of pay in the Bengal Educational Service—Rs. 250—250—300—40-2—500—50-2—600.

Names of teachers.	Academical qualifications.	Rate of pay. per mensem.
II—Lecturers.		
8. Maulvi Abdus Samad (I), Lecturer in Economics.	M.A.	(Rs. 150—10—400.) 200
9. Abdus Sadeque, Lecturer in Economics and Civics.	M.A. (Economics, Class I)	(Ditto.) 170
10. Maulvi A. H. Abdul Baqui, Lecturer in Philosophy and Logic.	M.A. (Philosophy, Class II)	(Ditto.) 210
11. Maulvi Abdul Mannan, Lecturer in Philosophy and Logic.	M.A. (Philosophy, Class II)	(Ditto.) 170
12. Khan Bahadur Reza Ali Washat, Lecturer in Urdu.	Passed Munshi Examination of the Board of Examiners, Government of India.	(Ditto.) 320
13. Babu Birendra Nath Sen Gupta, Lecturer in Commercial Geography, Commercial Arithmetic and Book-keeping.	M.A. (Commerce, Class II)	(Ditto.) 170
14. Maulvi Hedayatul Islam, Assistant, Physical Laboratory.	M.Sc. (Physics, Class III)	(Rs. 75—5—200.) 135
15. Maulvi Ganimat Ali, Assistant, Chemical Laboratory.	B.Sc.	(Ditto.) 135

Maulvi ABDUL KARIM: Is it a fact that the number of Professors and Lecturers in the Islamia College is larger than that of Government colleges of the same status in Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Maulvi ABDUL KARIM: Is any of these posts going to be retrenched?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: According to the standard laid down in the Report of the Retrenchment Committee, Professors and Lecturers have got to deliver a certain number of lectures every week, and it has been found that in the Islamia College according to that standard it is possible to retrench three Lecturers.

Maulvi ABDUL KARIM: Have the Governing Body protested against this?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Governing Body protested and said that they would give more work to these Lecturers.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it a fact that the tutorial classes in the Islamia College are much bigger than the tutorial classes in the Presidency and other colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Mr. NARENDRA KUMAR BASU: Is it a fact that tutorial classes in all the colleges are mere eyewash?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, certainly not.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it a fact that, according to the findings of the Retrenchment Committee, there is an excess in the Presidency College? If so, what reduction is going to be made in that college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I would refer my hon'ble friend to the answer I gave yesterday to a similar question. Two Bengal Engineering Service Professors have been retrenched.

Maulvi SYED MAJID BAKSH: Is it not a fact that the pay of the Professor of the Islamia College is much less than the pay of the same grade of Professors in other Government colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: All Government servants are on the same scale of pay, and they draw their pay according to the respective length of their service. There is no differentiation in the scale of pay of one college from another.

Maulvi SYED MAJID BAKSH: Is it not, therefore, a fact that the cost per head on the students is much less in the Islamia College than in other colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, it is less; because for one thing the Islamia College is a new college and the length of the service of its Professors and Lecturers is not large.

Maulvi SYED MAJID BAKSH: Is it not, therefore, a fact that retrenchment is not necessary?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That does not follow at all.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Has it been finally decided that this retrenchment will be made?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Principal and the Governing Body have submitted a fresh representation for further consideration and that representation is under consideration.

Mr. SYAMAPROSAD MOOKERJEE: On the same consideration is it proposed to retrench the staff of any other Government college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The staff of every college will be judged and decided upon on one fixed standard which has been decided by Government. If it is found that retrenchment is necessary, judged by that standard, then retrenchment will be made, otherwise not.

LEGISLATIVE BUSINESS

NON-OFFICIAL MEMBERS' BILL.

The Mela Sanitation Bill, 1933.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, present the Report of the Select Committee on the Mela Sanitation Bill, introduced by Khan Bahadur Maulvi Azizul Haque.

GOVERNMENT BILL.

The Calcutta Municipal (Amendment) Bill, 1933.

The discussion on the Calcutta Municipal Bill was then resumed.

The motion under discussion was the proposal for the recommitment of the Bill to the Select Committee.

MUNINDRA DEB RAI MAHASAI: Some of my friends in this House have characterised the Bill as a vindictive measure. I cannot call it so, because vindictiveness may be inherent among ordinary human beings, but it cannot have a place among extraordinary personalities and honourable men like our amiable Minister. He is both amiable and pliable. Had that not been the case, he would never have taken upon himself the responsibility of sponsoring this double-edged Bill—the political at one edge and the financial on the other. Division of labour is a sound proposition—the two new honourable knights have perhaps divided the labour among themselves, but that is a secret to the House. *Benami* transactions do not find favour in the Courts nowadays.

Mr. PRESIDENT: Order, order. I do not understand what you mean by political knights. What does it mean? It signifies nothing.

MUNINDRA DEB RAI MAHASAI: I stand corrected. Sir William Prentice should have come out in the open and taken charge of the political section of the Bill without allowing his colleague to bear the brunt of the blow alone—to be the target of the attacks from this side of the House. His skin is yet too thin and tender to bear such attacks which is not the case with his veteran political colleague, who, I believe, is plentifully supplied with rhino skin by his colleague of the forest for his underwear.

I think, it will not be out of order to offer an unsolicited advice to the honourable sponsor of the Bill; my first advice to him is to be bold and straightforward—not to halter or falter. When you have decided to do a thing, do it properly. Remember that things done by halves are never done right. My next advice to him is to withdraw the present Bill and bring in a new one at the next session on the lines suggested by me. I find that the spirit of Sir Surendranath has been invoked by both the parties—the one to curse the Bill and the other to bless it. I would beseech my friends to allow the soul of that great man to rest in peace and not to disturb it to serve their own ends. Let the dead past bury its dead. My final advice is to divide the proposed Bill into three parts—the financial, the political and the autonomous. The hon'ble sponsor of the Bill has shown by facts and figures that the collection from motor vehicles tax has doubled since it came under Sir William Prentice's Department. Let the collection of other taxes be made over to him. The appointment of a few additional sergeants under a Deputy Commissioner of Police may be necessary. But that can be sanctioned with the proviso that when on Corporation duty they should wear uniforms of the *swadeshi* brand. Like the Taxing Officer of the Motor Vehicles Department, the Deputy Commissioner will have to be authorised to impose fines not below Rs. 10 for every default. By this means the income of the Corporation are sure to be doubled. The transference of the collection and the appointment of Corporation employees to Sir William Prentice will save much trouble of the Councillors. The service-seeking men will then besiege the Secretariat and not the Corporation and the Councillors will be saved from being constantly pestered by dacoits, murderers with recommendations from questionable quarters.

The next part of the Bill will deal with contracts. They may be safely left to the indefatigable Secretary, Mr. Townend, to dispose. In that case no surcharge will be necessary.

The last part of the Bill will deal with the autonomous Corporation. Being freed from all sorts of worries and anxieties incidental to financial

obligations, the city fathers will be in a position to devote their time and energy to preserve the dignity and prestige of this autonomous body. I am sorry my Bill to designate the Mayor as Lord Mayor did not find favour with my colleagues at whose request I had to withdraw it. Had they the necessary foresight, they should have welcomed it. They had lost the splendid opportunity of witnessing the Lord Mayor's pageant as they do in London. Opportunities once lost are difficult to regain. However, the Councillors, the Aldermen and the Mayor should be given a free hand to hold meetings and adjourn them at their sweet will and pleasure. They should be given unfettered control over the liveried *chaprasis* who will attend on them befitting an autonomous body like the Corporation of Calcutta. Provision should be made not only to grant them adequate fees for attending Corporation meetings just as the Directors of Joint Stock Companies draw for their attendance, but they should be given an additional motor car allowance. Those of them who do not own cars should be given one for use. But that should be of the *swadeshi* brand of which the Corporation made an experiment. But as there might not be sufficient work for them to do, I think special rooms should be reserved for indoor games—of course, smoking, drinking and tiffin should be free. But all supplies should be strictly of the *swadeshi* brand—the contract for supplies should, however, be in the hands of the Secretary of the Local Self-Government Department.

I have just given an outline of the proposed Bill, and hope it will satisfy the three parties concerned.

I do not think it necessary to consider the case of the rate-payers. They should not grudge to pay their dues promptly. If they grumble, they have no right to live in the City of Palaces—the premier city in the East which under the proposed Bill will be converted into Paradise —a fairyland fit to be occupied by the Gods, the angles and the fairies and not for ordinary mortals. I hope my colleagues belonging to all sections of the House will patiently bide their time to see the dawning of the new era at no distant date. I hope the seven luminaries who adorn the Treasury Bench will whole-heartedly support my proposal. Great constitutional changes are not far ahead and this measure should be the forerunner of the coming Reforms. This psychological moment should not be lost. The preliminaries should be undertaken at once. The proposed Bill should be drafted, gazetted and circulated without delay so that it may be ready for the Select Committee on the first day the Council meets next. I hope it will be passed *nem. con.*

Mr. PRESIDENT: The Rai Mahasai's fine sense of humour must have amused the House, but I hope others will not emulate him. (Laughter.)

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I would like at this stage to say a few words only to give out what is uppermost in the minds of some of us, who have long experience of the Corporation of Calcutta. Sir, this proposal for recommittal of the Bill, coming as it does from persons who were from the very beginning inimical to any alterations in the state of the Corporation (question, question)——I sit so close to my friend (Mr. Shanti Shekhareswar Ray) and I am very often taken into confidence—that confidence I am not betraying, but I cannot avoid knowing his mind. At the present moment there is a class of men who will not have any alteration in the state of the Calcutta Corporation. I have no sympathy with them. The long experience to which I have referred has led us to think that after ten years' working of the present Municipal Act now it is time that we should find out where we stand. From my experience of the working of the Corporation I am prepared to admit that the old Corporation before the year 1924 was not immaculate. I do not for a moment assert that we the members of the old Corporation had nothing to our blame, but everything to our glory. But since 1924 things have very much changed and we may justly say that in certain matters the Corporation has deteriorated, although it has improved in certain matters. I have given credit to the Committees of the Corporation whenever the opportunity arose. But I cannot forget that in certain aspects the work of the Corporation has undergone marked deterioration (question). Sir, it is easy to question, but if one had the experience which I claim to have, he would not question it. A large number of persons who are mere hangers-on to the present Corporation, are to be seen every day loitering up to 8 or 9 a.m. on the lobbies of the Corporation in search of opportunities for making what is called "two pice." Who are these people? It cannot be denied that they are friends of a particular political party. I do not suggest taking drastic action against any political party, and I do realise that the day may soon come when that party will be replaced by another. However, we ought to find out how far the present party has affected the working of the Corporation. Are these people working to the detriment of the citizens of Calcutta or not? That is the point which we should find out. In our opinion the Corporation has suffered and attempts must be made to remedy the evil. The Government of Bengal should now take action to improve the situation. I, therefore, congratulate the Hon'ble Minister—our young friend—for taking courage in his hands and introducing this Bill the main object of which is to improve the state of affairs in the Corporation. I do not for a moment see any spirit of vindictiveness in it. If it had been vindictive, it would have been taken recourse to long, long ago. It cannot be a party quarrel, because no other party is in existence. There is now one party only and that is the Congress party. Coming back to the subject matter of the Bill I find the Hon'ble Minister has framed his Bill basing

on two important points: One is the keeping out of undesirable people from service in the Corporation and the other is the fixing of responsibility for incurring unauthorised and illegal expenditure and creating a system of surcharge. I really fail to understand why there should be—I take the second point first—so much objection to this surcharge if one's own conscience is clear. If one goes and votes on a matter knowing that he is doing something illegal, there is a chance of the Accountant-General coming down on him and holding him responsible for the money. But if he does nothing wrong, he has nothing to be afraid of. If my conscience is clear and if things are done *bonâ fide* and illegal actions are avoided, why should I be afraid of what the Accountant-General or anybody else may do.

Some of the clauses of the Bill will certainly have a very salutary effect. When one is voting for the disposal of lakhs and lakhs of other people's money, he should have a sense of responsibility and he must keep himself within legal bounds. In this connection, I may point out that the other day we were discussing a similar matter in connection with a large limited liability company. The point was whether the directors should not be made to compensate the loss which the company may incur on account of their laches. The shareholders' unanimous opinion was to make the directors responsible. Many eminent Indians hold very strong views on this matter. Really the directors are responsible if their actions led to losses of the company. It was pointed out that this could be done under the Companies Act. If a director wilfully does anything illegal and if the company incurs any loss on that account, the director is held liable. That is the tenor of the sections of the Indian Companies Act. If that be so, I fail to understand why the Councillors who are practically Directors of the Corporation should not be held responsible for any illegal action which might lead to the loss of money of the citizens of Calcutta. This analogy cannot be denied, *viz.*, that in a limited liability company the directors are in the same position as the Councillors are in respect of the Corporation. If the shareholders can claim the money back from a director who has gone astray, why should not the ratepayers of Calcutta claim the same privilege? Therefore, I for one think that the opposition is rather artificial. Now I come to the point about undesirable persons. I do not hold any strong political opinion, but I believe that at the present moment situated as we are, the Corporation of Calcutta is a body subordinate to the Government of the country. That being so, how can it be expected that those who commit any act of violence against the State and are convicted of similar offences should be looked upon with pleasant eyes by the Government of Bengal or the Government of India. I for myself am very proud of the city and proud of the Corporation, and I am one of those who would like to see that the Corporation should be supreme in the business of the administration of the city. But at the same

time it would be foolish of us to expect that the Government would have no right of interference if anything went wrong. If the people go against the State, how can they expect sympathy from the Government of India? The Bill proposed that those undesirable employees should be done away with and that such persons should not henceforth have any chance of getting into the service of the Corporation. The Select Committee struck a way between the two viewpoints and decided that the Bill should not have retrospective effect, but would disqualify those in the service of the Corporation if they were convicted after the passing of the Bill. I personally feel that we ought to be satisfied with that compromise. The Select Committee almost unanimously decided that offenders who are already in the service of the Corporation should be allowed to remain. But that is no reason why others with similar offences to their credit should be allowed to seek service under the Corporation. I think that ought to satisfy all. These are the reasons which have led us to oppose the recommittal of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, I rise to support the amendment. Before this I thought I should not support it because of the disclosures made by the Hon'ble Minister in the course of his speech on the floor of this House regarding the maladministration of the Calcutta Corporation. But when I read in the paper the minutes of proceedings of the meeting of the Calcutta Corporation, I found to my surprise that the charges levelled against the Corporation were nothing but a tissue of falsehoods.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, will the hon'ble member kindly withdraw those words? I take exception to them.

Mr. PRESIDENT: Dr. Ghose, you should withdraw those words. You might say that the statements were incorrect.

Dr. AMULYA RATAN GHOSE: I bow down to your ruling, Sir, and say that the arguments adduced by the Minister were all based on incorrect statements and this was proved to the hilt by the debate in the Corporation meeting. If allowed, I shall later on quote from the speeches of the Mayor and some prominent members of the Corporation to show that the statements are incorrect. Sir, I was extremely surprised to find that the Bill, as introduced and referred to the Select Committee, was based upon arguments which consisted of untruths, half-truths and mixed truths. It is not long ago that we were faced with many incorrect, inaccurate and untrue statements made by the Hon'ble Minister on the floor of this House while introducing the Bengal Municipal (Amendment) Bill, 1932.

Mr. S. M. BOSE: Sir, is the member in order when he says untrue statements?

Mr. PRESIDENT: I will not like you to take the time of the Council for hair-splitting.

Dr. AMULYA RATAN GHOSE: But on this occasion he has beaten all past records. He has made statements which have been torn to tatters by the replies of the Mayor, the ex-Mayor, Mr. Nalini Ranjan Sarkar and Mr. N. C. Pal in the meetings of the Corporation held on the 14th, 16th and 17th August. Government had been looking forward for an opportunity for a long time to get these repressive Bills passed into law, but did not get it as the strong Swaraj party was in the Council. They had tried many times to introduce the Bengal Municipal Bill, but all their attempts were foiled. Now they have got a nice opportunity, because the Swaraj party has gone out of the Council and those who are now in it are all good boys, except a few. They felt the pulse of the Council last year in connection with the Bengal Municipal Bill——

Mr. PRESIDENT: Order, order. I must stop you from saying anything that might be construed as a reflection on the House.

Dr. AMULYA RATAN GHOSE: All right, Sir. And they found that the position was absolutely secure.

Mr. PRESIDENT: What do you mean? Try to skip over that portion of your written speech. (Laughter.)

Dr. AMULYA RATAN GHOSE: The labours of the Hon'ble Minister were promptly rewarded by Government with a knighthood——

Mr. PRESIDENT: Order, order. That is a mere guess and has a bad odour about it.

Dr. AMULYA RATAN GHOSE: Very well, Sir. I will not relate those facts in view of your present ruling. The leaders of the country who were all apathetic at that time are now stirred to vigorous action but it is too late, I think. It is said that give a dog a bad name and then hang it. Government and some of their pocket men allege that the Corporation is now used for political purposes, but the fact is otherwise. There is no denying the fact that the Dictator of the Congress is Mahatma Gandhi and it is certain that the Congress Councillors of the Corporation follow his principle. I think it will not be out of place if I mention here what that great man said at a meeting

of the *Swarajya* party held on the 28th June, 1925, while paying tribute to the late Mr. J. M. Sen Gupta, that the Corporation should not indulge in politics. With your permission I may also state here what Mr. J. M. Sen Gupta on his first election to the Mayoral Chair of the Calcutta Corporation said. He said: "I can assure you that it will be my earnest endeavour in the administration of the Corporation and in the shaping of its policy, so far as lies in my power, to look to the interest of the rate-payers as a whole without any distinction. I shall approach every question arising in the Corporation as a citizen and not as a politician." I do believe and I hope that the countrymen of the late Deshpriya will believe that he had been true to his words. Sir, it is the deprivation of the Government and its satellites to use this institution for their own purpose that has given rise to heart-burning in those and other disappointed quarters. Every member of this House knows that employments under Government are monopolised by the friends and relatives of those members who always like dumb-driven cattle go to the Government lobby at the time of voting——

Mr. PRESIDENT: Order, order. You had better not say anything like that. I take the strongest possible exception to your remarks.

Dr. AMULYA RATAN GHOSE: All right, Sir. I bow down to your ruling. Even the excise licences are now being given to men of that nature. Sir, the members of the Select Committee are mostly drawn from members of that group, as for instance Mr. S. M. Bose——

Mr. PRESIDENT: Order, order. I cannot allow you to say that. I might tell you that you cannot with impunity cast any reflections on the members of the Select Committee, because they were not outsiders nominated by Government, but were members of Council and were elected by this House. If you cast any reflection on them, you slander the House itself.

Dr. AMULYA RATAN GHOSE: Sir, I was saying that not with the object of casting any reflections——

Mr. PRESIDENT: Order, order. You need not labour that point.

Dr. AMULYA RATAN GHOSE: Sir, I think that this attitude of Government—this political object, the object to have their own objectives carried out by the Corporation and the frustration of this object has brought them into conflict with such a glorious institution of Bengal as the Corporation of Calcutta. Sir, it will not be out of

place to mention here the remarks of the Simon Commission regarding the Calcutta Corporation. With your permission, Sir, may I quote these remarks?

Mr. PRESIDENT: If they are with reference to the Corporation of Calcutta, certainly you can.

Dr. AMULYA RATAN GHOSE: Sir, the report says:—

"The difficult period of transition from wide official control to the complete control by the elected representatives of the people has passed without disaster, and there is no apparent demand for a return to the former constitution. Mr. Das and Mr. Sen Gupta both presided over meetings with fairness and dignity. Councillors in general show no lack of interest in civic affairs and give up much time in attending different meetings. There is great keenness about medical and public health work, and the zeal for free primary education is shown by the large number of new schools which have been started during the last few years."

Sir, there is another remark which says:—

"Generally speaking, Government have been reluctant to interfere with the powerful Corporation which has a strong sense of its own dignity."

These are the remarks made not by the Congress, not by any political party, but by the Simon Commission itself, whose report was submitted to Government. Will anyone, after this, venture to say that the Corporation is guilty of the charges levelled against them? Is it being used for political purposes? The answer from every conscientious gentleman is an emphatic "No". But the Government is bent upon hitting it hard and, therefore, no stick is bad enough to strike the dog with. If you will allow me, Sir, I can show that this is the attitude of Government. I can do that by quoting extracts from the speeches of some of the prominent members of the Calcutta Corporation. May I do that, Sir?

Mr. PRESIDENT: About what?

Dr. AMULYA RATAN GHOSE: Sir, about the charges levelled against the Corporation and those charges have been refuted by facts and figures by some prominent members.

Mr. P. N. GUHA: We have all got that paper.

Mr. PRESIDENT: Yes, Dr. Ghose can do that.

Dr. AMULYA RATAN GHOSE: Sir, I shall first of all mention the matter of the appointment of so-called murderers and dacoits. I am quoting the following from the reply of Mr. Nalini Ranjan Sarkar:—

"Regarding 'the appointment of murderers and dacoits,' he has given five names, of which one never worked as a teacher in the Corporation schools according to our records; another left our service five years ago. The services of two were terminated one and a half and three years ago, respectively. One man, so described, is still in the service of the Corporation. The Corporation was not aware of his conviction (alleged to have taken place in 1915) at the time of his appointment in 1925. I am giving the history of these cases briefly as follows:—

(*1*) Phanindra Mohan Mukherjee, Head Master, Beliaghata Main Road School. Appointed in 1925. Arrested December, 1931, under Bengal Criminal Law (Amendment) Act. Leave according to rules up to December, 1933. Corporation has no information about his alleged offences, if any, previous to his appointment. The Minister gave no definite information about his alleged conviction of dacoity in 1915.

(*2*) Sreemati Subasini Ganguli. Qualified Matriculate Teacher. Arrested at Chandernagore, but released for want of evidence. Corporation, on her application, appointed her from 1st December, 1930. She was re-arrested and detained from 14th January, 1932. Her services were terminated from that date and leave cancelled. No information of her conviction for murder or dacoity.

(*3*) Nikhil Nath Roy was appointed——"

Mr. P. N. GUHA: On a point of order, Sir. Can lectures that were delivered elsewhere be read here?

Mr. PRESIDENT: What do you mean? Dr. Ghose is perfectly in order to quote facts and figures that might have been released by Councillors of the Corporation. You cannot object to that. He must have his own way of developing his arguments.

Dr. AMULYA RATAN GHOSE: Thank you, Sir.

Mr. PRESIDENT: I do not think you need read out long extracts. You should be able to pick up such relevant points as may be helpful to you. You should use a certain amount of discretion.

Dr. AMULYA RATAN GHOSE: All right, Sir. Now, the fourth case is that of Priyanath Ganguli. He was arrested for translating

an English book (not proscribed) into Bengali and convicted. His post was declared vacant. He was reappointed in January, 1925, but was removed for insubordination in August, 1928.

(At this stage the speaker reached the time-limit.)

Dr. AMULYA RATAN GHOSE: Sir, if you would kindly give me a couple of minutes to develop my arguments, I should be very thankful.

Mr. PRESIDENT: I can give you just two minutes to conclude your arguments.

Dr. AMULYA RATAN GHOSE: Sir, much has been made of the refusal of the Corporation to accept the invitation of the Select Committee in order to rouse the anger of the members of this House. I may, with your permission, quote from the speech of the Mayor——

Mr. PRESIDENT: You could not possibly do that in two minutes.

Dr. AMULYA RATAN GHOSE: Very well, Sir. These matters were all discussed in the Corporation meetings when the valiant Reverend Mr. Nag was present, but, still, yesterday in this Council he was heard nagging—perhaps it is natural to a senile brain. May I ask him, Sir, whether his son, who was arrested for taking part in the civil disobedience movement, was a pupil in one of these Corporation primary schools? Mr. Nag repeated the words in this Council which he uttered in the Corporation and to which he received a crushing reply from Mr. Brahma. If you had heard that reply, Sir, you would have enjoyed it.

Reverend B. A. NAG: Perhaps, you enjoyed it.

Mr. NARENDRA KUMAR BASU: Judge not lest ye be judged.

Dr. AMULYA RATAN GHOSE: Reverend Mr. Nag complained of frequent adjournments, but did he ever oppose them? If not, is he not a silent supporter of these adjournments? He cannot conscientiously raise the question here.

Babu Amulyadhan Ray tabled a motion for recommittal with a possible hope that some *bandobast* would be made for the depressed classes——

(At this stage the member reached the extra time-limit and resumed his seat.)

Maulvi ABDUL KARIM: I beg to propose, Sir, that the motion be now put.

Mr. H. P. V. TOWNEND: Sir, I do not rise to reply to the speech of Dr. Amulya Ratan Ghose which will have to be left to other speakers. I have been directed by the Hon'ble Minister to meet certain arguments put forward by Mr. P. Banerji yesterday for a recommittal of the Bill. I may remind the House that a motion has been put forward for recommittal, and it is in connection with arguments advanced in support of that motion that I have stood up to speak.

Mr. P. Banerji stated that one of the chief arguments why the House should recommit the Bill was that the attitude of the Government towards the Comprehensive Electric Scheme was altogether unsatisfactory, and he warned the House that if this Bill went through, the Comprehensive Electric Scheme would be doomed. I would draw the attention of this House to this admission by Mr. P. Banerji that even if the scheme was not considered by Government, on examination, to be a good scheme and even if, under the Calcutta Municipal Act, sanction was refused by Government, the Corporation of Calcutta intended to go on with it. Otherwise, how could he say that the passing of this Bill would be a death-blow to the Comprehensive Electric Scheme? I think, Sir, it is only due to the House that I should explain the facts in connection with that scheme. An allegation has been put forward by him that Government dislike the idea of the Corporation making a profitable bargain and bringing into effect a scheme that will enable the Corporation to obtain all the electricity they want at a cheaper cost. This cost, he said, would probably be Rs. 5 lakhs a year as against Rs. 12½ lakhs which the Corporation spend annually at present and which, in his opinion, means an additional expenditure of Rs. 7½ lakhs—the price paid to the monopolist Electric Supply Corporation. Of course, I need hardly tell the House that Government has got no interest whatsoever in this monopolist company: Government is not concerned in any way with its profits. Such considerations may, therefore, be given the go-bye.

Mr. P. BANERJI: Does the Government get any preference?

Mr. H. P. V. TOWNEND: Now I should like to say with emphasis that there is no evidence to show that as a result of carrying out this scheme there would be any saving to the Corporation. Dr. Dey asserts that if his scheme is adopted, the price per unit will be ·299 annas including interest. He has not dealt with the offer of the Electric Supply Corporation to supply electricity at ·1925 annas per

unit delivered at one centre in the conditions which Dr. Dey claims that he can satisfy. This incidentally is an offer which was never, so far as I can discover, put before the members of the Calcutta Corporation. He has not shown that this offer would not mean cheaper electricity than his own scheme would offer. I do not, of course, say that you can compare the two figures directly—or say that the Electric Supply Corporation offers to provide electricity at ·1 of an anna per unit less than Dr. Dey. Dr. Dey's figure refers to low tension electricity as used at different places, whereas the Electric Supply Corporation's figure refers to high tension electricity supplied at one centre. What I want to say is that Dr. Dey cannot show that he can arrange for the supply of low tension electricity at the price that he has suggested.

Sir, Government are said to be hostile to this scheme. We have dealt with this matter in two letters in which it was pointed out that Government had not yet been able to consider the scheme. That was a very polite way of putting it. The real point is that no precise scheme has ever been put forward in writing by Dr. Dey: he does not know himself exactly what the scheme is. He has simply not ventured to put it on paper. All that he has done is to put forward an idea that if certain preliminaries could be effected successfully, then he would be able to make further arrangements which would be likely to bring in a big profit to the Corporation. He has never explained what these preliminaries are. If I might refer to the enclosures to the Corporation's letter, I would like to read out what he says:—

"The high tension system will consist of mainly two main trunk lines: One along the Strand Road over Tolly's Nulla to Watganj, supplying energy to Mullickghat Pumping Station on the way and to Watganj Pumping Station. This cable will also supply the Garden Reach area, for which low tension overhead lines from Watganj will be required.

The other will follow the canal on the south side until it reaches Talla Bridge, thence south along Upper Circular Road, Lower Circular Road, Lansdowne Road to the Lake area. This will serve on the way the various sub-stations and transformer stations, which between them will supply the entire requirements of the Corporation throughout the city."

I may explain that Dr. Dey's scheme provides for a central generating station at Baghbazar in the north of Calcutta.

If we turn over a few pages, we find that Dr. Dey with sublime simplicity says: "In the alternative, the main cable line may be in the form of a 'ring man' ".....and so on. There are alternatives, but he has not investigated which is better. He says here are two schemes: choose which you like. He then goes on to say "in which

case the section of the core of the cable may not be more than 1·5 times the adequate section," etc., and goes into technical details which, I think, will be of no interest to the House. Besides, I do not pretend to understand all the technical details myself. I am not an electrician, and I have merely studied this scheme from the point of view of common sense. Government examined this scheme when it came up and sent it along to the Electrical Adviser for examination. I may here refer to the remarks made by Mr. P. Banerji. He said in effect (I cannot quote his words), it is scandalous that Government should have treated the scheme in such slipshod manner, allowing the Electrical Adviser merely to deal with it unofficially and not in an official letter. Here he betrays his complete ignorance of official terminology. An "unofficial" opinion is recorded on note-sheets and an official opinion is conveyed by a letter. In this case all the correspondence was sent to the Electrical Adviser, and he was asked to note on the scheme. Following the established custom, the notes were all treated as confidential. It appeared from his examination that the scheme was defective. He said that it might be a good scheme for all he could tell, but there were no materials on which to judge it. He pointed out one or two omissions. One of these omissions is rather interesting. The whole attack upon Government made by Mr. P. Banerji depends upon the argument that the capital cost of the scheme will be Rs. 22 lakhs and nothing more. But what about the cost of the change over from gas to electricity? That difference ought to be taken into account. On a rough calculation, judging by the map, it appears that it is in the region of Rs. 15 lakhs, which is not a negligible figure in estimating the cost of the electricity. I do not know whether this argument is correct or not, because Dr. Dey has never given us any facts. I speak, Sir, of Dr. Dey and not of the Corporation, for, although Dr. Dey submits his report to the Corporation and the Corporation sends it up to Government, yet practically it is his scheme. The Corporation does not seem to understand the scheme, nor, I think, does Dr. Dey understand it either.

The second point was that the scheme totally omitted the value of the Corporation buildings and land which he proposed to use. He says, for instance, there is at Baghbazar a nice site for the central power station and a building there which can be used for it. But have they no value? The Corporation uses the site now, I understand, as a depôt for road metal. Even if the Corporation does not want it for its present purpose, has it no value in the market? Should this not be debited against the scheme, if it goes into the scheme? If it is not used in the scheme, it can be sold and the Corporation will be benefited financially. There are several lakhs—how many I do not know and I think no one in the Corporation

knows (not even, I imagine, Dr. Dey)—which have been omitted. There are several lakhs to be added on to the figure for capital cost. We had to add to Dr. Dey's 22 lakhs perhaps Rs. 15 lakhs for conversion from gas, and we have now to add a further figure, it may be 5 lakhs, it may be 10 lakhs, or it may be 1 lakh, for all I know, which has to be taken into account. There is no way of judging the scheme without such information.

The third point is that he has given us no figures on which he bases his estimate of cost. He puts up an estimate for machinery and an estimate for cables, but he has not put up a full estimate for the whole cost of the scheme. One thing that he did say about the scheme was that it was supported by certain statements made by firms who wanted contracts for the sale of machinery. Naturally, firms which wanted to get contracts approved the scheme; naturally they said to him: "It is an admirable scheme; it will cost 22 lakhs—give us contracts for that amount or for as much as possible of it." These opinions were not those of real expert Electrical Engineers. We should have expected that for an impartial opinion Dr. Dey would go to an expert Electrical Engineer who was disinterested and not to firms which wished to make a profit out of the Corporation. One interesting thing is that they too, although they were interested, asked for further data to be given before they could give *pucca* quotations.

It now comes to this, that for the cost of the whole scheme there are no facts: we have only to take Dr. Dey's word. We must take the view that Dr. Dey is such an expert electrican that even though he does not give facts, we must accept what he says. I do not know if the House knows what his qualifications are——

Mr. PRESIDENT: Is it necessary to go into his qualifications?

Mr. H. P. V. TOWNEND: What I wished to point out is that on his own statements, although he has good academic qualifications, he has not had practical working experience as an Electrical Engineer.

Mr. PRESIDENT: It is not necessary to labour that point.

Mr. H. P. V. TOWNEND: In view of all these omissions, in view of the fact there is no evidence whatsoever that the cost will be as estimated, Government asked for information. They sent out a letter on the 14th November, 1931, with a schedule asking for information on various points. I may, I think, reveal a secret from the Government files; that is, the Local Self-Government Department when they saw the amount of information that was being asked for,

suggested that too much information was being asked for, and questioned whether it was fair to ask for so much information. The Commerce Department under whom the Electrical Adviser works said such information was insisted on from anybody that put in an application for generating and distributing electricity, and added that the Corporation should not have any real difficulty in answering because, obviously, they must have had all their facts at their fingers' ends before they came up with their scheme for sanction. On the 14th November, 1931, Government asked for these data, and 19½ months later (I am saying this deliberately) on the 6th June, 1933, we got a reply from the Corporation. I do not know if I am in order in referring to some statements made in the press on this point. The Minister gave this information in answer to certain questions asked in this House, and it has been challenged by a certain statement in the press. It was challenged by Dr. Dey himself in a letter which he wrote to a gentleman named Gilbert; in this letter he categorically said that the information given by the Minister in this House was untrue. The first point he made was that the scheme had been before the Government for over two years. I have already pointed out that there was no scheme with the Government for over two years. There was no scheme. His second point was that the letter of the 20th November was "dealt with" immediately? What does he mean? He means the public to believe that an official reply was sent immediately giving the information required. But no such reply was sent. It was only a demi-official letter that was received from the Chief Executive Officer and this did not supply the information but asked my predecessor if he had any objection to the Electrical Adviser going to the Corporation and explaining precisely what was wanted. Four days later my predecessor said certainly there was no objection and, I think in the middle of December, Mr. Redcliff went down to the Corporation and tried to make Dr. Dey understand what was needed.

His next point is that no reply was sent by Government to reminders. But so far as Government knows, and so far as our records show, no reminder whatsoever was issued. There was nothing to issue a reminder about. The demi-official letter to which reference has been made we had already replied to, and action had already been taken; the only letter outstanding was that from Government. It would seem that Dr. Dey has a curiously distorted mind. The only reminders we received were about the electrical works to which we had taken exception. Dr. Dey said in his reply to the schedule which came with the letter of the 6th June that the electrical works had no connection whatsoever with the comprehensive electrical scheme, and therefore he cannot be referring to any of these reminders. If Dr. Dey's scheme was drawn up with the

same regard for facts as the letter which I am criticising, one will be justified in suspecting errors in the scheme. Government asked for certain things from the Corporation. I do not want to go into figures, but I would like to mention a few points. Government said we want to know the names of the several buildings and streets concerned, with loads in each under columns, etc.; we want to see a map of Calcutta showing positions of all buildings and streets where the cables are going to be laid and to know the routes, sizes, and estimated drop of voltage of underground cables, overhead feeders, etc. In other words, Government wanted to have data on which to calculate what the scheme would cost. To these queries we got a reply in scheduled form. I would remind the House that the Local Self-Government Department had thought this schedule to be so big and to demand so much information that the Corporation might not fairly be expected to give replies to it. Here is the reply—one page! It took Dr. Dey 19½ months to write that one page.

Mr. P. BANERJI: What about the seven letters that were sent?

Mr. H. P. V. TOWNEND: I have already explained that there was no such thing as seven letters.

(Here the member reached the time-limit but was allowed to continue.)

The reply given by Dr. Dey was as follows:—

"Names, positions, etc., of streets and buildings are given in a map of Calcutta forwarded to Secretary, Local Self-Government Department, along with Chief Executive Officer's letter, etc."

Here is the map, in my hand. It is no more than a sketch map intended to show that a certain statement made in the letter of the Government to the Corporation about the electrical works was mistaken. It shows just the outline——

Mr. P. BANERJI: There are two schemes. Government are linking up the two schemes and Mr. Townend is misleading us.

Mr. H. P. V. TOWNEND: There are two schemes. This sketch map shows them. The cables which are laid under the comprehensive scheme are shown in broad lines and the ragged lines show the cables already laid under this scheme to which we object—these represent the small scheme for generating electricity. (Interruption by Mr. P. Banerji.) May I suggest that it is hardly fair of Mr. Banerji to interrupt me when I am explaining these matters from my point of view? I did not interrupt him when he was explaining them from his, even though he did not seem to understand what he was saying; whereas, I do at any rate understand what I am saying, even if it may turn out to be wrong. I will show Mr. P. Banerji

not only this sketch map, but the other map also to which Dr. Dey's reply refers. There are no streets marked on it; it has nothing to show the lines to be followed by the cables or to show where are the lights and the points from which the power will be distributed. Let Mr. Banerji, with the permission of the President, come here and examine the map. It is very pretty, but it contains no information at all. We have not got the information we asked for. Government have put down precisely and not in any vague way what they are asking for—where the cables are going to be run, where the overhead lines are going to be run, and where the power is going to be taken, so that the cost may be worked out on full data. But Dr. Dey has not given any information about all this. He goes on to say in reply to the schedule that the other details were shown to the Electrical Adviser when he called at the Municipal Office. The Electrical Adviser told me that he went there only once in this connection.

Mr. PRESIDENT: Perhaps this was merely an offshoot of the debate. Is it necessary to labour that point?

Mr. H. P. V. TOWNEND: You are quite right, Sir. The whole point which I want to make is that the Hon'ble Minister has not led the House astray—that he has not turned down a perfectly good scheme in order to benefit a monopolistic company, that he is not trying to hamper the scheme, but that no real scheme has ever been put before him.

Mr. P. N. GUHA: Mr. President, Sir, the controversy that has been raised over the Calcutta Municipal Amendment Bill is rather of an acute nature and yet I have so far intentionally taken no part in it. I would not have risen to speak even to-day if I did not feel that Mr. B. C. Chatterjee was trying to create a wrong impression in the minds of the people. He has made the misleading assertion that the Corporation of Calcutta was going to be condemned unheard and he has characterized this as un-Hindu, un-Moslem and un-Christian. He holds that there is still room for a compromise and he has advocated the idea of holding a conference between the Government and the Corporation.

Mr. B. C. CHATTERJEE: On a point of order, Sir. I did not say that there was still room for a compromise. What I said was that the matter might be discussed with the representatives of the Corporation round a table and that the Corporation should be given an opportunity of stating their case.

Mr. PRESIDENT: That is not a point of order: it is a personal explanation.

Mr. P. N. GUHA: Exactly Sir, and what I want to establish is that ample opportunities were given to the Corporation to state their case, and to do this I will mention facts only without any comment. I shall briefly state all that happened in this connection during the past three years.

Sir, the attitude of the Corporation towards the Government and *vice versa* had been subject matter of talk and comment in the Press and in the public places during the past three or four years. It was at the end of July, 1930, that I went to Simla and found that the hills were boiling over the matters of the Corporation of Calcutta. Some high officials asked me if I could give satisfactory explanation of matters in the Corporation. (Mr. Syamaprosad Mookerjee: "Name them.") Wait, I will. I found that feelings were running high against the Corporation in the high official circle and as a co-operator and a believer in the high powers of the Government, I was naturally alarmed and feared that something serious might take place at once. I came back and conveyed the whole news to the people in authority in the Corporation. I tried to convince them that the time was ripe for rectifying the wrongs if there were any and for removing the ill-feeling of the Government. They saw the reasonableness of my proposition and agreed to do anything that may be necessary. The idea of a conference as is now suggested by Mr. B. C. Chatterjee began then and it took a definite shape in the early part of 1931. I do not want to mention names, but it was with the consent and approval of two or three most prominent gentlemen in the Corporation belonging to the Congress party that I approached the Government and told them all misunderstandings could be removed if a friendly conference was held or a committee appointed to go into the whole matter. The suggestion was taken by the Government and it was in December, 1931, that in reply to a series of questions put by me in this House that the Hon'ble Minister stated that a committee was going to be appointed to go into the whole question. Sir, it may be recalled that there were angry outbursts and adverse criticisms as soon as the proposal of the appointment of a committee was announced in this House. However, I still hoped that those two or three gentlemen holding high positions in the Corporation would be able to stick to what they had already said, but I was disappointed at the last moment. Sir, you are aware that in the present Act there is no provision for the appointment of such a committee by the Government but the proposed committee was not going to be a statutory committee, it was going to be a sort of friendly conference in which it was decided that places would be given to five representatives of the Corporation.

Mr. SYAMAPROSAD MOOKERJEE: Decided by whom: By you?

Mr. P. N. GUHA: No, by them. I got the consent of all of them. I was assured that they were ready to serve on the committee.

Dr. NARESH CHANDRA SEN GUPTA: Sir. Is Mr. Guha in order to refer to conversations which took place in confidence so that names of the persons cannot be disclosed?

Mr. P. N. GUHA: Sir, I was only a humble messenger and I cannot disclose the names of the persons, and I carried the views of one party to another and so I cannot disclose the names or go into details. (A VOICE: Is he in order?)

Mr. PRESIDENT: What I feel is this: that since the thing did not materialise, it is absolutely unnecessary for Mr. Guha to give all these details.

Mr. P. N. GUHA: Sir, since Mr. B. C. Chatterjee raised this question of a conference, I thought that I might give these details.

Mr. PRESIDENT: I do not think it is any use now going into such details.

Mr. P. N. GUHA: Negotiations then failed. After that, as soon as this Bill was introduced, the negotiations were started again.

Mr. PRESIDENT: Mr. Guha I do not like you to labour that point. I think it will serve no useful purpose to go into all those details.

Mr. P. N. GUHA: Sir, the fact is that all attempts to settle matters in conference failed. I would not pass any opinion as to whether the Corporation or the Government were guilty but the outstanding fact is that the time for negotiation as suggested by Mr. B. C. Chatterjee has passed. Attempts in that direction were made, but they proved to be futile. There were two or three gentlemen who were very anxious to accept the idea of a friendly conference, but they could not carry others with them. Sir, I do not believe that there is anyone in the Calcutta Corporation who can "deliver the goods" as has been said elsewhere. A conference across a table, as has been suggested by Mr. B. C. Chatterjee, is an impossible proposition, and that is what I have been trying to impress upon the House. All these things have been tried, but the party in authority in the Corporation is in no mood of accepting a compromise. I have tried my best and failed, but surely I can have no objection if Mr. Chatterjee works in that direction, but I can assure him or for the matter of that anyone whom it may concern that there is no one who will be able to persuade the Corporation to pass a resolution favouring a conference with the Government.

(At this stage the Council adjourned for 15 minutes for prayer.)

(After adjournment.)

Mr. K. C. RAY CHOWDHURY: Sir, in my humble opinion, Mr. Townend has given a very cheap notoriety and publicity to Dr. Dey. I think henceforward Dr. Dey would ask for money without any *pucca* scheme or project. I may say that Mr. Townend's speech will keep the local press engaged for weeks. Coming to the principle of the Bill, what is after all the essence of the opposition arguments? It is this: it is vindictiveness, the instigation of the Europeans, the instigation of the police. The former because they cannot get any contract from the Corporation, and the latter because they cannot lay their hands on them. I may tell the members of the House what the editor of a leading semi-Congress paper told me long before the Minister ever conceived the idea of this Bill for killing the Congress party, that good posts and things are reserved in the Corporation for political sufferers. I challenge any oppositionist to deny that fact. I may at the same time tell, for the benefit of my friends here as well as outside, that I met in Edinburgh an Irish gentleman who happened to be a Councillor of the Dublin Corporation. I was rather inquisitive and asked him many questions about the Dublin Corporation. He told me that long before the Irish Free State was constituted, the Dublin Corporation had no political offenders in its service, because the rate-payers would not have them as their money was earmarked for the improvement of the town of Dublin. I think other sources than the Corporation fund ought to be exploited for the purpose of affording relief to the political sufferers.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have listened with attention, I may say with respectful attention, to what has fallen from the supporters of this motion as well as from those who opposed the motion during the last two days. The principal speakers in support of the motion were Mr. Narendra Kumar Basu, Dr. Naresh Chandra Sen Gupta, Mr. Syamaprosad Mookerjee, Mr. B. C. Chatterjee and Mr. P. Banerji who introduced the debate. Mr. Banerji, if I may say so, delivered almost a blank canvas to his supporters, and they had to fill it in. Now, what is the point at issue? It is that the Corporation was not given a chance to vindicate its position and so the Bill should be recommitted. That was the main line of argument of Mr. B. C. Chatterjee, and if I mistake not of Mr. Narendra Kumar Basu too. Now, let us analyse these statements one by one. Three letters were addressed by Government to the Corporation of Calcutta categorically stating the charges against them in July, 1932. I will read one or two paragraphs from those letters just to remind the House the object of addressing those letters, the tone used and the informations asked for. Sir, in one of the letters in which the general information was asked for as distinct from the letter under section 15 of the Calcutta Municipal Act about the Corporation primary schools, Government said: "The Government of Bengal (Ministry of

Local Self-Government) consider that the time has come to examine in the light of the experience of the last 8 years, how far the provisions of the new Act have in actual practice fulfilled the objects which the Legislature may be presumed to have had in view, and in particular, whether in carrying on the detailed work of municipal administration difficulties have been experienced, pointing to the existence of defects in the Act which may call for amendment. With this object in view, Government desire to invite the co-operation of the Corporation and would like to be furnished with information in detail under the heads specified below:—

(*1*) Delay in the disposal of audit reports.

(*2*) Disposal of business by Corporation and Standing Committee.

(*3*) Appointments.

(*4*) Contracts and contractors.

(*5*) Grants to libraries, clubs and other public associations."

It was not a letter in which the Government wanted to chastise the Corporation. It was a letter of request to the Corporation for certain facts, and it was a letter of request for their co-operation to help Government in amending the Calcutta Municipal Act in the light of the experience of the last eight years. This was the tone of the letter and the object of the letter was perfectly clear and simple. Now, to this letter the Corporation replied. I will read the resolution that was passed by the Corporation in reply to this letter of request: "That the various points raised in sub-headings (*2*) to (*5*) in the letter are matters entirely within the rights and powers of the Corporation under the Act, and Government be informed that the Corporation does not feel itself called upon on the said letter to send any reply on those points, etc." This is the reply which Government got. My friend Mr. Mookerjee said yesterday that the Corporation did not refuse to send any reply. I do not know what this reply meant if it was not a refusal. It was a most impertinent reply that Government could expect from a local body. The reply was evasive and impertinent—that is how I venture to characterise it. Sir, in the reply there is a clear assertion by the Corporation—I do not think I need read those lines because I have already repeated them on several occasions on the floor of this House—that the Corporation consider it no part of their duty to take any notice of the political activities of their teachers outside the school hours. Thus, it left no alternative to Government but to step in, because the Corporation refused to discharge their obligations. The second chance was given to the Corporation by Government when the Bill was circulated to them for their opinion. The Bill was introduced on the 30th March last under peculiar circumstances. As Mr. Guha pointed out, on the 16th December last, in reply to a question, I believe put by Mr. Cooper, I said that Government would introduce

legislation within the session, meaning within the winter session of 1932-33.

Mr. NARENDRA KUMAR BASU: Then it was kept ready in your pocket for a long time.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: So the legislation was long contemplated and it was not forged overnight only because certain parties succeeded in the Corporation election as Mr. Narendra Kumar Basu said and Mr. Abdus Samad seemed to think. Mr. Narendra Kumar Basu said that because the Congress party succeeded in the election and because the party to which I had the honour to belong did not succeed, this measure had been introduced. Nothing of the kind. I may tell my friend that the elections were fought between the two wings of the Congress, and there was no question of liberal candidates. The liberals were not contesting the seats. So that allegation is absolutely baseless. The third opportunity that was given to the Corporation was by the Select Committee. The Select Committee wrote a letter and invited the Corporation to come and help them in pointing out if the Bill as introduced were placed on the statute book would work or not. The Corporation in their wisdom refused to co-operate with the Select Committee. The Corporation is obsessed with the idea that it runs a parallel Government and it is not subordinate to the Local Government. It forgets that it came into existence because of a statute passed by this House, by this subservient Legislature, subservient because the present Legislative Council is in a manner a replica of the first Council. There were men like my friends Mr. Jatindra Nath Basu, Rai Bahadur Dr. Haridhan Dutt, Mr. S. M. Bose, Mr. Razaur Rahman Khan, Nawab K. G. M. Faroqui, Sir Provash Chunder Mitter and my humble self, who helped Sir Surendranath Bannerjea in placing the Calcutta Municipal Act on the statute book; it was not a Swarajist or a Congress Legislative Council. Sir, Mr. B. C. Chatterjee said that it is never too late to do justice, but justice has to be sought, and should be spurned with contempt. Mr. Narendra Kumar Basu said that as the Local Self-Government Department had nothing better to do, they wanted to scrutinise the appointment of Corporation teachers. To that my reply is that it is somebody's duty, it is the duty of the Corporation to scrutinise it, but as they refused to discharge their obligation, certainly Government had to step in. And Mr. Basu said that so far as law and order were concerned, the Ministry of Local Self-Government should have left the matter to the Hon'ble the Home Member. Sir, this would have been shirking responsibility, because the Calcutta Corporation is under the Ministry of Local Self-Government and not under the Hon'ble Sir William Prentice.

Sir, my esteemed friend, Mr. Chatterjee, has urged more than once on the floor of this House that law and order should be transferred to a Minister. Now, this is a test of the mentality of persons like my friend. What support he and men of his mentality would offer to future Ministers when they would be called upon to discharge an unpleasant task regardless of popular applause.

Mr. B. C. CHATTERJEE: As regards law and order, I would always support you.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sure he will not like to transfer the important department of law and order to Ministers who would be shirkers and who would like to shift the responsibility from their shoulders to the shoulders of their colleagues. (Ironical cheers.)

Sir, a clever and astute lawyer like Mr. Chatterjee (MR. CHATTERJEE: Question.) I quite appreciate his humility. He referred to the name of Pulin Bihari Das. I never mentioned his name. He was granted amnesty by His Majesty, but Mr. Chatterjee conveniently forgot to mention the names of Priya Nath Ganguli, Jnananjan Neogi and others. What of them?

Mr. B. C. CHATTERJEE: Priya Nath Ganguli made a confession and was pardoned by Government.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Might be, but the record does not show it.

Sir, Dr. Sen Gupta said that the Minister was not in a position to say what was the amount of loss that the rate-payers had suffered. I think that my friend is always "imagination all compact." Perhaps, being so, he failed to give sufficient attention to the dry figures which I mentioned on the floor of this House while moving the reference of this Bill to Select Committee. I would remind him that the unrealized rate bills piled up——

Mr. B. C. CHATTERJEE: On a point of information, Sir. Does the Hon'ble Minister know that the pamphlet issued by his department mentioned Pulin Das's name?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I never mentioned his name.

Mr. B. C. CHATTERJEE: Does the Hon'ble Minister take responsibility for this pamphlet (the member showed the pamphlet to the House).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, I don't.

Mr. B. C. CHATTERJEE: Did the Government circulate it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have got nothing to do with it.

Mr. NARENDRA KUMAR BASU: Possibly, it was circulated by the Police Department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think it was circulated by the Publicity Department of Government, with whose activities I am not concerned.

Mr. PRESIDENT: Order, order. You cannot make the Hon'ble Minister responsible for any pamphlet that might have been issued by the Publicity Department.

Mr. B. C. CHATTERJEE: On a point of order, Sir. This pamphlet was circulated in the precincts of this Council, and I take it that it was circulated with your approval.

Mr. PRESIDENT: Yes, but it does not follow that it was either authorized by the Hon'ble Minister or had anything to do with the prospective debate. The Publicity Department requested that this pamphlet might be circulated to the members of this House, and I agreed to do so as I did in the case of the pamphlet containing the Mayor's speeches.

Mr. B. C. CHATTERJEE: Quite so, Sir. What I submit is that the pamphlet of the Mayor was circulated when this Bill was being referred to the Select Committee. It was put to you as a pertinent issue before your permission to circulation was obtained, and, further, the matter was pertinent to the discussion.

Mr. PRESIDENT: It really makes no difference.

Dr. NARESH CHANDRA SEN GUPTA: On a point of personal information, Sir. The Hon'ble Minister was pleased to refer to me as "imagination all compact." Does he mean that I am either a lunatic, or a lover, or a poet? (Laughter.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: A combination of the three, Sir. (Laughter.)

Mr. B. C. CHATTERJEE: On a point of information, Sir. In whose charge is the Publicity Department?

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, may I inform the House that no Member of Government is a member of the Publicity Department.

Mr. B. C. CHATTERJEE: It seems, Sir, Government is disowning the Publicity Department!

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I may remind Dr. Sen Gupta that the unrealized rate bills piled up from Rs. 2 lakhs to Rs. 36 lakhs, and surely a portion of that amount will be time-barred.

Then, I would draw his attention to the contract in connection with the Moore-Bateman scheme which was executed by the Indo-Swiss Trading Co. for a sanction of Rs. 9,000 and odd, but which ultimately came up to Rs. 1,16,000 and odd.

Mr. NARENDRA KUMAR BASU: Date?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall give the date.

I shall now read out the remarks of the Chief Accountant of the Calcutta Corporation in this connection. He says that the steady evolution of this estimate from a small seed to a gigantic plant, as it were, is an interesting study—shall I call it a painful study? It would certainly be interesting to compare the departmental estimate of Rs. 9,788 for extras with the contractor's claim of Rs. 87,488 for worn-out parts, etc., and an additional sum of Rs. 26,000 for various works, the nature of which could not be ascertained by the Accounts Department. This is what the Chief Accountant of the Calcutta Corporation says. (A VOICE: What is the implication? I cannot follow you.) Sir, the implication is this, that the money of the Corporation was wasted and the Chief Accountant took exception to this in his capacity as the guardian of the finances of the Corporation. Naturally, he pointed out that this rise from Rs. 9,000 and odd, the departmental estimate, to Rs. 1,16,000 and odd, was certainly unjust and unjustifiable. He goes on to say that even if a new machine had been purchased, it would have been cheaper, and all this was done even without sanction. There was a *post mortem* sanction by Government, because Government did not like to hold up matters in the Calcutta Corporation——

Mr. NARENDRA KUMAR BASU: What is the date?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is to be found in the proceedings of the 33rd Water Supply Extension Special Committee, held in the Municipal Office, on Friday, the 17th June, 1932.

Then, about Bando's case, to which reference has been made more than once by some hon'ble members. I may read what the Chief Accountant said in this connection from the Audit Report. The Chief Accountant reported on the 3rd February that it could not be denied that the non-execution of the agreement within a reasonable time after

the 24th April, 1929, and payment in advance of large sums before the execution of the scheme played an important part in making the Corporation accept the modified terms on the 26th September, 1930, and in enhancing the rate from Rs. 15 to Rs. 30 per foot, resulting in a total excess of Rs. 1,22,676 over the original amount of contract. The Corporation suffered a loss because there was no contract executed originally and the work was undertaken without any execution of contract by this contractor. Sir, lastly, I would refer Dr. Sen Gupta to the realisation of taxes under the Motor Vehicles Tax Act. I gave figures on the last occasion that in the course of the last three years the Corporation must have lost to the tune of Rs. 15 lakhs, if anything.

Mr. Syamaprosad Mookerjee has described this measure as mischievous, but I was anxiously waiting to hear him to elucidate his point and to explain what made him say that the Bill was mischievous. The Bill tries to check the appointment of persons who were convicted for revolutionary activities either as teachers or as officers. The Bill provides that there should be proper audit and there should be surcharge for the loss of money to the rate-payers, if the loss has been brought about by negligence or misconduct of any officers or Councillors or Aldermen of the Corporation. Sir, these are the two provisions of the Bill.

The provision about the surcharge finds place not only in other provincial Acts but also in the English Statutes; they are the recognised safeguards in the statutes of all local bodies all over the civilised world. Mr. Mookerjee stated that the affairs of the Corporation could not be managed in the way the Government wanted them to be managed. Government wanted them to be managed only according to these recognised principles. Sir, if the affairs of the Calcutta Corporation cannot be managed according to these principles, does Mr. Mookerjee approve of the affairs being managed according to the principles of self-interest and according to the principles of party clique? Then, he criticised my communiqué—the communiqué which was issued on the 31st of March last, explaining why Government did not wait for any motion before the House. There was no motion, so I could not speak in this House. As you, Sir, know very well, the matter was referred to you, and you ruled that I could not speak: naturally, I had to issue a communiqué on behalf of Government, explaining the position.

Sir, that is all, and I hope I have clearly explained the charges, and I may again reassure the House that the Bill has been introduced out of a sense of duty to the rate-payers of Calcutta and not in a vindictive spirit. If the Bill is placed on the statute book, it is the rate-payers' money that will be saved. If any money is realised from persons who waste the rate-payers' money, that will go into the coffers of the Calcutta Corporation and not be credited to the treasury of the Local Government.

Reverend B. A. NAG: Sir, I beg to move that the question be now put.

The motion that the Calcutta Municipal (Amendment) Bill, 1933 be recommitted to the Select Committee being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kishori Mohan.
Choudhuri, Maulvi Nural Absar.
Faziullah, Maulvi Mohammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Maniendra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemai.
Ray, Babu Jitendra Nath.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nasher.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Cara, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nazirur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. B. R.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. H. G. A.
Ensufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. N.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dillduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Goenka, Rai Bahadur Badridas.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. C.
Hossain, Nawab Mushargaf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Huggins, Maulvi Latafat.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Mason, Mr. D. A.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chander.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mullick, Mr. Mahendra Behary.
Nag, Reverend B. A.
Nandy, Maharaj Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Qassem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Rahman, Maulvi Azizur.
Raikat, Mr. Prosanna Deb.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Chowdhury, Mr. K. C.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy, Choudhuri, Babu Ham Chandra.
Saadullah, Maulvi Muhammad.
Saharay, Babu Satya Kinkar.
Sarker, Rai Sahib Rohini Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. S. R.

Sen, Rai Bahadur Girin Chandra.	Townend, Mr. H. P. V.
Shah, Maulvi Abdul Hamid.	Walker, Mr. W. A. M.
Steven, Mr. J. W. R.	Wilkinson, Mr. H. R.
Sumner, Mr. C. R.	Woodhead, the Hon'ble Mr. J. A.
Thompson, Mr. W. H.	

Ayes being 19 and Noes 89, the motion was lost.

The motion that the Calcutta Municipal (Amendment) Bill, 1933, be recommitted to the Select Committee with respect to clauses 7, 8, 9, 10, 11 and 12, was put and lost.

The motion that the Calcutta Municipal (Amendment) Bill, 1933, be taken into consideration, was put and agreed to.

Clause 1.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 1 be renumbered as clause 1 (*1*) and after that clause as renumbered the following be added, namely:—

"(*2*) This Act will come into operation on such date as the Local Government may, by notification in the *Calcutta Gazette*, direct and for this purpose the Local Government may notify different dates for the coming into operation of different provisions of this Act."

I think there is nothing much objectionable from the Government point of view in this amendment of mine. I would rather put it that the consideration of this amendment and its acceptance or otherwise by the Hon'ble Minister will be an acid test of his repeated protests that in introducing the Bill he was not vindictive. Some of us may have had our doubts on the point and those doubts might be strengthened by the feeling that probably the Hon'ble Minister protests too much, but I hope that by accepting this amendment he will show that he is really not pursuing the Corporation from any evil motive, if I may say so. As the House has seen, so far as the first part of the Bill is concerned, it relates to the appointment of officers. As the Bill is not retrospective, it is only to operate in the case of future appointments, and I may take it that judging from the number of convicted people which has been given in that discredited Publicity Department pamphlet, of which the Hon'ble Minister says he knows nothing, and disclaims all responsibility for it, I take it that even according to that pamphlet which the Hon'ble Minister, as I have just said, finds himself now compelled by circumstances to disown, I submit that according to that pamphlet, even the number or rather the proportion of officers objected to by the Publicity or the Police Department and not by the Local Self-Government Department, the proportion is infinitesimal, and the number of new appointments is not likely to be many—at least no figures have been given to us, nor any theories or suggestions have been advanced by the Local Self-Government Department or by any other

department to show that there is any danger of the Corporation offices being swamped by men who would be disqualified under the new Act, if this Bill was passed into law. That being so, I do not think it is necessary to have the Bill coming into operation as soon as it is passed and has received the assent of His Excellency the Governor and His Excellency the Governor-General.

I submit that so far as the second part of the Bill is concerned, namely, that which relates to charge and surcharge, I must confess that I have not that familiarity with the English laws on Corporations which the Hon'ble Minister has shown, but I do submit that if the Calcutta Corporation and the Bengal Government in all its departments have been able to go on so long without these provisions, then the deferring of the coming into operation of these provisions would not spell public disaster. Moreover, Sir, we have just had an exhibition of what the results of the coming into operation of the second part of the Bill are likely to be in the proceedings published in yesterday's newspapers. As I have previously stated in this Council, every department of the Government of Bengal as it is now constituted and each of the heads of departments and heads of the Government offices are liable to be surcharged for acts of omission or commission, even according to the report of the Accountant-General, Bengal, who, I was glad to learn from the Hon'ble Minister, is the auditor under the Calcutta Municipal Act and who audits the accounts of the Government of Bengal also. I say it is trite knowledge to the members of the Council that if the reports of the Accountant-General, Bengal, as to the acts of omission or commission of the work of officers of Government were to be taken into consideration, very few of them would escape surcharges. Still, in spite of that the Bengal Government have gone on and heads of departments when called by the Public Accounts Committee have not hesitated to say that they are ignorant of financial rules. It may be, Sir, that in cases like that of the Corporation which consist mostly of laymen who give honorary services, which they think to be their duty, to their home town—it may be that many of them may be betrayed into voting for an expenditure of money which may not strictly be legal or strictly lawful according to the Accountant-General, Bengal. In these cases I think the law would operate with a great deal of hardship. But once the Bill is placed on the statute book, it will be hanging like the sword of Damocles over the heads of the Councillors, and I am sure that the terror of this sword of Damocles will make them more careful than what they have been according to the Hon'ble Minister in the past. I do not forget that in the case of one of the so-called unlawful expenditures—the removal of pumps from one station to another—that was done at a time when the great law-abiding Minister was a member of the Corporation and there was no protest from any side of the House, and therefore it is absolutely and transparently clear that

members of the Corporation may in times of emergency do things in the honest and *bonâ fide* belief as to the correctness of their action and they may do things which from the accounting point of view may not be absolutely lawful. But with this sword of Damocles hanging over their heads, the Councillors will certainly be very careful in future, and I do not think it will add to the difficulties of the Government of Bengal if my amendment is accepted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. The House has just now by an overwhelming majority given a clear indication that they want to place this measure immediately on the statute book and there is no reason why the enforcement of the Act should be unnecessarily and unduly delayed. If it were the desire of the House that some provisions of the Bill were not necessary and should, therefore, not come into immediate operation, the House would have accepted the motion of Mr. P. Banerji or that of Mr. Shanti Shekhareswar Ray. Sir, Mr. N. K. Basu has said that the number of persons convicted who are in the employment of the Corporation is not very large. As the retrospective clause of the Bill has been dropped, so far as the present employees of the Corporation are concerned, the Bill does not touch them. As regards future employees suffering from disqualification, Mr. Basu assumes that their number is not likely to be large. If the number is not large or if the number is nil, this provision of the law would become a dead letter. There would be no application at all of this provision, so my friend need not be anxious about that. If the Corporation behaves properly, if they do not appoint persons suffering from disqualification, if they do not indulge in illegal actions, then certainly the provisions of the Bill will not come into play.

Mr. Narendra Kumar Basu's motion was put and lost.

The motion that clause 1 stand part of the Bill was then put and agreed to.

Clause 2.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to suggest that clause 2 cannot be considered at this stage.

Mr. PRESIDENT: What is your point?

Babu KISHORI MOHAN CHAUDHURI: I submit, Sir, that before sections 123B and 123C are amended, this clause cannot be considered. These two sections are to be operated as a bar to taking any action. After these amendments are disposed of by the House, this clause and clause 3 can be considered.

Mr. PRESIDENT: I agree, but does the Hon'ble Minister also agree?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no objection; they may be taken later.

Mr. PRESIDENT: Then clauses 2 and 3 will be held up for the present.

Clause 4.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that clause 4 be omitted.

I should like to draw the attention of the House to the fact that clause 4 deals with the employment of political offenders. In their present form the provisions are less drastic than they were in the original Bill. The proposed section 54A provides that "without the previous sanction of the Local Government in each case, no person shall be appointed as a municipal officer or servant if he has been convicted of an offence against the State or has been sentenced to imprisonment for a term of three months or more" and the following sections are more or less consequential: the principle is that no person who has been convicted of an offence against the State shall on any account be appointed by the Corporation without the sanction of the Local Government. Besides that, it also provides that no person shall be appointed who had been convicted of any other offence—such trivial offences as theft, pocket-picking or offences against women—provided that on conviction he had been sentenced to imprisonment for more than three months. Then, again, this disqualification is to remain only for five years. In other words, the moral guilt of a man who commits these trivial offences may be washed away in five years but the moral guilt of a person convicted for offences against the State cannot be washed away except by the Papal dispensation of the Local Government. Sir, I oppose all these provisions. There is no reason why a political offender, a person who has been convicted of a political offence, should be disqualified for appointment to a Corporation office. He may be a man who is eminently qualified for the post: he may be a man who may be able to do very, very good service to the Corporation in that capacity. But merely because he has been convicted under one of the provisions of the Penal Code in Chapter 6 or 7—offences against the State—offences which may be very slight, offences which need not necessarily be very serious, should not disqualify him from acting, say, as an Engineer of the Corporation or even as an educational officer. Mr. Nag yesterday, overburdened with a sense of responsibility which comes upon him by virtue of his adorning the benches of the Calcutta Corporation, regarded all those persons who

do not happen to be there as irresponsible, and it is only irresponsible persons, who, he said, would recommend that such persons should be appointed to offices under the Corporation and especially as school masters. Mr. Nag has been speaking, I believe, the English language longer than he has spoken the Bengalee language—oftener at any rate—and perhaps he knows what is meant by the word "irresponsible" or the epithet by which he characterised myself and others who do not happen to be in the Corporation. But I think the man who says that merely because a person happens to have been convicted of a political offence he is disqualified to be a teacher or anything else, is talking absolutely irresponsibly. It is probable that Reverend Nag has never read the sections of the Indian Penal Code which are contained in Chapters 6 and 7. If he had read them, he would have found that a man though he has been convicted of one of the offences once in a lifetime may be the best of men to be appointed not only to a Corporation office, not only as a school master but to the highest offices of the State, and in this connection, I am tempted to remind him that the highest office in the State, that of a Minister, was occupied by an ex-convict. Well, Sir, Mr. Nag was absolutely indignant at the thought that the Corporation schools should have political offenders as teachers. Now, the political offender may have been a person who was a member of a procession which was considered to be illegal and which would usually be brought under one of the conspiracy sections of the Indian Penal Code, section 121A, and he might have been convicted and sentenced to detention in the Court for the day. If such a man is in the school, he would certainly as a rate-payer object to sending his boy to the school. I would not dispute for a moment Mr. Nag's view in the matter. There is no law which compels Mr. Nag to send his boy to one of the Corporation primary schools. But there are thousands of people who would be quite glad to send their boys to the school in which a political offender or an offender of the type of Sir Surendranath Bannerjea taught. Hundreds and thousands of people were educated in the Ripon College where Sir Surendranath Bannerjea taught. What is there in a political offender which makes him unsuitable as a teacher? What has a teacher in a primary school teaching the elements of reading, writing, and arithmetic to do with politics? The boys in a primary school have got nothing to do with politics, and if a political offender who is a teacher there wastes his time by giving political lectures, certainly it would be time for the Corporation to take action; it would be time for the House Member through the myrmidons of the Police to see to it. Is it seriously suggested that the mere fact of a person being convicted of a political offence makes him in any way unsuitable for the teaching of the elements of reading, writing and arithmetic? I must confess I am not an apologist of the Corporation; I must confess that there has been a great deal said about the Corporation here as well as outside which does not bring them out in the best of light, but I must also say

that the Corporation has not taken the straightforward attitude that they ought to have taken. The point is that the Corporation is run by persons who belong to a particular—

Mr. PRESIDENT: Is it necessary to go into these matters again? I think it is your duty to prove the necessity of your present amendment and the defects of the clause as it stands.

Dr. NARESH CHANDRA SEN GUPTA: The present amendment is for removing the section which prevents the Corporation from appointing political offenders.

Mr. PRESIDENT: What I wanted to point out to you was that as we had already discussed the principles of the Bill and had, on its merits, decided to take it into consideration, we should not reopen the general discussion. We are now taking up the Bill clause by clause, and the amendments that have been tabled deal with specific portions of those clauses beyond which we should not go.

Dr. NARESH CHANDRA SEN GUPTA: The question before the House is whether this clause which disqualifies the political offenders from being appointed in the Corporation should stand or not.

Mr. PRESIDENT: If I am not mistaken, you were trying to say something about the present constitution of the Corporation. Then again, you attacked Mr. Nag in respect of certain observations which he made with regard to a different motion. If I allow you to go further, the result will be that when Mr. Nag rises to speak again he will naturally make an attempt to retaliate. The wordy duel will thus go on and there will be no end of it.

Dr. NARESH CHANDRA SEN GUPTA: What I may be permitted to say is that people have been appointed in the Corporation who hold a particular political opinion. They have been appointed in preference to others because the party in power in the Corporation happens to hold that particular political opinion. I do not think that there is anything wrong in that. The mere fact that a few of these persons have been political offenders is immaterial, especially with regard to the fact that their political offences might be of a trivial nature. The language of the section makes the conviction of a political offence in itself a disqualification without regard to the gravity of the offence. First of all, I say that the mere fact of a person being a political offender is no disqualification and the particular political party in power in the Corporation is justified in making such appointments. In the second place, I say that in case the absolute disqualification placed upon a political convict is absolutely unjustified, I do not say that the

Corporation have been very judicious in making their appointments, I do not justify their appointments at all, but I say that a self-governing body ought to have the liberty to appoint persons whom they considered suitable. If it is the policy of the State to suppress political movements which are obnoxious by taking action against these political offenders, the State is perfectly at liberty to do so, but what the Corporation is asked to do by this clause is to assist the State in suppressing political movements by taking the bread away from the mouths of the political offenders. That may be a part of the policy of Government, but why should the Corporation be asked to assist them in carrying out that policy? It has been said that this is not a new principle that has been introduced; it is already in the Act. In the Act there are certain disqualifications which are mentioned in respect of certain things. They go upon one particular principle. Persons having an interest in any contract in the Corporation are not eligible for appointment. Persons convicted of offences involving moral turpitude are disqualified. But this is quite a different disqualification; a disqualification is brought in in pursuance of a particular policy of the State for the time being. I think interference with the powers of the Corporation in the matter of appointments for the purpose of giving effect to a particular policy of the Government for the time being is entirely objectionable. In saying this, I hope I shall not be accused of being an advocate of the Corporation. What I want is that we should consider the question of principle apart from the question as to whether the Corporation has acted rightly or wrongly in the past in respect of other matters. Even with regard to this matter, the question is whether it would make it possible for Government to enforce its policy of repressing a particular kind of political activity through the Corporation. For instance, let us suppose that some day the Communists capture the Council and they become Ministers, and they consider that every person who supports private ownership is an offender against the State. And the Government would be then justified under this clause to go and say to the Corporation that the Corporation which might be governed at that time by persons believing in private ownership would be debarred from appointing persons who believe in private ownership. Would you tolerate that sort of thing? Look at it from that point of view apart from all questions of controversies that have been raised. I submit, Sir, that there can be no question that this clause is unjustifiable.

Reverend B. A. NAG: Sir, I rise to oppose this amendment. The reason is that though Dr. Sen Gupta has spoken for a long time, still he has not touched the essence of the section. The section does not say that political offenders should not be appointed. It only says that they should not be appointed without the previous sanction of the Government. It means that they may be appointed to the highest position in the Corporation with the previous sanction of Government.

Dr. NARESH CHANDRA SEN GUPTA: On a point of personal explanation, Sir. I do not know whether my friend was listening when I said that without dispensation nobody can be appointed.

Reverend B. A. NAG: The wording is "without the previous sanction of the Local Government," and we cannot go beyond that. As it has already been pointed out that political offenders have been appointed even in Government service with Government sanction, I do not see any reason why Government should object to the appointment of a political offender whom they know to have turned over a new leaf, but in the case of those who are still breathing vengeance to Government, Government have every right to object. Dr. Sen Gupta referred to the main section, though he never read it. It says: "No person shall be eligible for any office mentioned or referred to in section 51, if he is seriously indebted to any person." I am afraid Dr. Sen Gupta might have gone a little further and said: "What does it matter if a person be seriously indebted, he should be appointed as a teacher in a primary school or as the Chief Executive Officer." The law is there and this is only an addition to it. In any case, the main point is that it does not disqualify a political offender. It only makes it compulsory upon the Corporation that in the case of a political offender his case should be referred to Government. If Dr. Sen Gupta or those who support his amendment want to say that no such reference should be made to Government and give reasons for such a provision, the House will, I am sure, be glad to hear the arguments, but inasmuch as it has not been done, there is no sense in the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. The main principle underlying this provision, as I explained when I moved for referring this Bill to the Select Committee, is that Government wanted to prevent the Corporation appointments being looked upon as rewards for anti-Government activities. The Bill nowhere lays down that persons convicted of political offences should be disqualified altogether from being appointed to the Corporation service. Nothing of the kind. But the discretion whether a particular political offender or a person suffering from this disqualification should or should not be appointed to the service of the Corporation should lie with the Local Government and not with the Corporation. If the Corporation had used their power with discretion, it would not have been necessary for Government to introduce this clause at all; but I maintain, Sir, that the Corporation by their action have definitely encouraged anti-Government activities and have encouraged people to look upon Corporation appointments as prizes for anti-Government activities. It is for that reason that this provision has been introduced. I might tell the House again that this provision only seeks to prevent such appointments being looked upon as rewards for anti-Government activities.

Sir, Dr. Sen Gupta asked the reason why should a person convicted of political offences—which may be very slight—be disqualified from appointment to the Corporation service. He cited instances, or at least stated that persons convicted of political offences occupied highest positions under the Crown or might occupy highest positions in the Corporation. Quite so. Sir, but I might remind the hon'ble member that they are all politicians or statesmen. The permanent staff should never indulge in politics. It is—and can never be—the intention of any Government or any public body that their employees should take to politics or their appointments should be looked upon as rewards for anti-Government activities. It is with this object in view that this clause has been introduced. As I said before, the clause is wider than it should have been; but it is a case of drafting difficulty. It is so difficult to leave out minor offences, but it is certainly not the intention that the provisions of this clause should be applicable to persons convicted of offences of a non-political character.

Sir, I oppose the amendment.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I have a similar motion, but I think I had better support the motion moved by Dr. Sen Gupta. I have carefully listened to the speech delivered by the Hon'ble Minister to-day. I remain unconvinced as regards the necessity of the provisions embodied in this clause or in the effective character of the provisions. To my mind the Hon'ble Minister has been in no way successful in establishing a case in support of his proposals. I would ask the House to consider the question from two aspects: the first is the encroachment on the powers of the Corporation in the matter of making appointments; and the second is the encroachment on the right of a citizen to apply for a post under the Calcutta Corporation. The Hon'ble Minister and his supporters in this House have not been able to adduce any evidence to suggest that the Calcutta Corporation have in any way misused their power in the matter of appointments. Can he cite a single instance where the Calcutta Corporation have appointed a person against the instructions of the Government of Bengal, or can he cite a single instance where a recommendation from the Calcutta Corporation has been turned down by the Government of Bengal? Sir, during the last ten years the Corporation of Calcutta have made many recommendations that required the sanction and approval of the Local Government in connection with appointments. The Hon'ble Minister cited the case of Srijut Abinash Chandra Chakravarti who was a detenu at one time——

Mr. PRESIDENT: Mr. Ray, you are not entitled to reply to a previous debate.

Mr. SHANTI SHEKHARESWAR RAY: I shall try to avoid repetition as much as possible. I bow to your ruling, Sir. My point is that the Calcutta Corporation have not abused their powers.

Mr. PRESIDENT: That is all right.

Mr. SHANTI SHEKHARESWAR RAY: Sir, if there has been a case in which the Government of Bengal considered the appointment of a particular person undesirable and if the Corporation of Calcutta had insisted, in spite of the decision of Government, to make that appointment, then there might have been an occasion for such encroachment on the powers of the Corporation. In the absence of such action on the part of the Calcutta Corporation, it is rather uncharitable on the part of the Government to interfere with the discretion of an important body like the Corporation.

Sir, I wonder when this novel suggestion entered the head of the Hon'ble Minister in charge of the Local Self-Government Department. In this House, about a year ago we passed the Bengal Municipal (Amendment) Bill and we passed also the Local Self-Government (Amendment) Bill. On these occasions the Government did not attempt to encroach upon the powers of appointment of these local bodies. My suggestion is that in this matter Government ought to be guided by one principle. If they did not consider it necessary for such modification in the case of municipalities and district boards, why should Government do so in the case of the Calcutta Corporation. If these undesirable persons can be appointed in the service of the municipalities and district boards of Bengal, why should they not have the privilege of being appointed to service under the Calcutta Corporation?

Sir, I may now refer to the clause. The clause, as it stands, says that it is not going to have retrospective effect. These undesirable persons—I do not know why they are undesirable from the Government point of view, I am told they are thought so as they hold anti-Government views (Government have coined a new phrase which has not been defined in any Act as yet)—will continue to serve the Calcutta Corporation. A man who has been convicted and sentenced to one year's rigorous imprisonment and has been in the service of the Corporation will continue to do so; but if there is a new job vacant and if a person who has been sentenced to four months' imprisonment only and if that person applies for the job, his case will be rejected. On what moral grounds can you justify it? Sir, even the high priest of civil disobedience, the Chief Education Officer, can continue in the service of the Corporation. I do not understand why the lesser fry,

i.e., those who have been accidentally caught and convicted, will be debarred from applying for jobs. I think there can be no reasonable justification for this attitude on the part of the Government.

Now, Sir, I shall turn to another point, and that is how the provisions embodied in this clause are going to help Government in their purpose. The fact is that in the opinion of an important member of Government the present Calcutta Corporation is anti-Government; and to meet that situation what do Government suggest? They suggest that the Calcutta Corporation cannot make appointments of certain classes of people—they cannot appoint so and so. But, if the Calcutta Corporation is really an anti-Government body, they can easily frustrate the intentions of Government, in spite of this clause. If they like to patronise and help anti-Government people, well there is nothing that can stand in their way. They can appoint a relative—a brother of an objectionable person, or give him contracts. How are you going to stop that? What are you going to do in that situation? I would ask Government to seriously consider their position in the matter. Do they really believe that the Calcutta Corporation is anti-Government? I do not think so. Though Mr. Townend may say so, I think it is an unwarranted assumption. The Hon'ble Minister has already repudiated the action of the Secretary of the Publicity Section of the Political Department, and we should not be surprised if some of the members on the Government benches sooner or later repudiate the sentiments expressed by Mr. Townend the other day. He has definitely stated that the Corporation of Calcutta has been carrying on anti-Government activities.

Mr. PRESIDENT: I am afraid you are again making an attempt to reply to a previous debate.

Mr. SHANTI SHEKHARESWAR RAY: No, Sir, I am only assailing the position of Government. My point is this: that this clause cannot be helpful to Government at all. During the last few years thousands and thousands of our countrymen have come in conflict with the Government. They may not have been convicted actually of sedition or of any offence which is considered to be an offence against the State, but they have been sentenced to long terms of imprisonment practically without trial or, may be, after the farce of a trial under the ordinances and special Acts. At one time I read in the papers that 80,000 civil disobedience prisoners were in jail. Sir, we have lakhs and lakhs of our young men gaoled during the last few years. So if you accept the clause you debar all these people from serving under the Calcutta Corporation. Is it fair and will it redound to the credit of any member of this Legislative Council to debar so many of his

countrymen who have suffered, and suffered nobly, not for any personal consideration but for the great cause of winning the freedom of their motherland? Sir, if they have suffered, they have suffered uncomplainingly, and are you going to reward their services in this fashion, and because they have the courage, the grit, the spirit of sacrifice to stand up and suffer for a great cause will the doors of the Corporation be for ever closed to them, unless they humiliate themselves and apply to Government in a penitential mood for condonation of their offences?

(At this stage the member reached the time-limit, but was allowed to continue one minute longer.)

I would ask the House as well as the Government to look at the matter from this point of view and not create further mischief and trouble but accept the present condition of things and agree to drop this clause as unnecessary and useless.

Babu KISHORI MOHAN CHAUDHURI: I support the proposition that clause 4 should be omitted. I have tabled a similar motion also, but as it has already been so ably moved I simply support it. The point which I urge for the consideration of Government is that a very absurd situation has been created by this clause. Some of the important members of the Corporation, such as the Mayor and others, may be ex-convicts and can do anything but they cannot employ anybody who was or has been ever convicted or sentenced or punished for any offence whatsoever. Here in this clause there is nothing about anything involving moral turpitude of the convicts, but simply anyone who has ever been sentenced to imprisonment will be debarred. We have also heard it from the Hon'ble Minister that it is not the intention of Government that the Corporation should be allowed to do anything to reward persons who have acted against the interests of Government. My idea is that the Bill has been introduced at a very inopportune moment. We are anxiously waiting for the time when a general amnesty is expected for the political offenders. On the last occasion, Lala Harkissen Lal, who was then undergoing imprisonment for six years or so, was pardoned and he was made a Minister for the Punjab. To my mind the Bill is not well conceived. Some time ought to have been taken at least to see in what way the new Reforms are ushered in. If there be such an amnesty, then there is no necessity at all for debarring the political offenders from any appointment under the Corporation. So, I think the clause should not be introduced at this moment. My point is that by this clause an absurd situation will be created. As I have said, if the persons who are to appoint these men, if they are not to be debarred from taking any active or leading part in the Corporation's affairs, why should their subordinates be debarred from serving under it? And in this connection I do not know whether Government make any large contribution to the funds of the Calcutta

Corporation. I think the general principle is that whenever Government make any contribution to anybody, of course then they can interfere. But if there is no such contribution, they should not interfere with an autonomous body like the Corporation in the way in which it is being attempted to be done. To a certain extent there should be autonomy and the Calcutta Corporation is an autonomous body, and they should have certain discretion in making an appointment. If a particular individual is not guilty of any very serious or heinous offence, there is no reason why the Corporation should not appoint him——

(At this stage the Council was adjourned for 10 minutes.)

(After adjournment.)

Babu KISHORI MOHAN CHAUDHURI: As I was saying, if Government do not contribute to the Corporation funds, it should not say in what way the thing should be done. Of course, abuse of their powers or misuse of their money can be controlled in some other way. If anybody does anything against Government, he can be prosecuted; he can be deported and otherwise punished. But simply because somebody is somehow or other sentenced to imprisonment for three or four years, or was convicted for some offence under Chapters VI and VII of the Indian Penal Code, therefore, he should lose his appointment and not find any place on the Corporation,—that is very wrong.

In the case of educational grants, there are a large number of aided and unaided schools. In aided schools Government can interfere or impose some conditions as to how certain things should be done, but in unaided schools Government cannot interfere in that way. Of course, if anybody belonging to those schools does wrong, he can be dealt with in any other way; nobody will prevent Government from doing that. The school authorities may be warned not to employ undesirable officers but that is all; beyond that warning they cannot go. If you can say to-day that such and such persons should not be appointed, to-morrow you can say that such and such persons should not be elected. The elective principle has been introduced there. Anybody who can get the support of the majority of the electors should go there. The elected members are there and if the majority of them think that anybody is fit to be appointed there, fit to be encouraged, that person ought to be appointed. If that person does anything wrong or breaks the law, you can punish him in any other way, but the policy of the Government should not be to interfere with the internal affairs of the Corporation in the way in which you are attempting to do by the provisions of the Bill. So far as this clause is concerned, I think it should not find a place in the statute book. It would be against the accepted policy that without paying anything you should not dictate terms as to the way in which the work should be

conducted. Either in the case of a public body or in the case of a private individual, it is absurd in itself. It is for this reason that I ask the Hon'ble Minister and the members of the House to consider whether such interference should be encouraged. Sir, it is strange that at a time when the whole country—at least most people and most of the members in this House also—are crying hoarse for releasing the political offenders in order to create a calm atmosphere for the smooth operation of the Reforms, Government should proceed to enact such a measure by which the liberty, the autonomous character of a public body would be interfered with. Now, Sir, a particular Mayor may be an ex-convict, and if any convicted person goes to him for an appointment and if the Mayor declines to appoint him on the ground of his being an ex-convict, would not the man turn round and say to the face of the Mayor that the latter also was an ex-convict? Perhaps the Minister will say that the Mayor is a politician of high order and the rule would not apply in his case. I say that that is no excuse. That man may be as honourable a man as the Mayor or the Deputy Mayor who may be an ex-convict. But because he holds a high position and the other man simply an applicant for an appointment, you cannot say that the former can be the head of the Corporation but the latter, the applicant, should not find any place in it. That is a position which will be absurd for the Mayor to deal with, and it will be absurd for the Local Government also to enact such a measure by which an autonomous public body should be obliged to carry on its affairs under their control. This is the reason for which I say, Sir, that this clause —I mean clause 4—should be omitted.

With these words I support the motion.

Mr. P. BANERJI: I rise to support the motion so ably moved by my friend Dr. Naresh Chandra Sen Gupta and supported by so many members. In doing so, I must say at once in the words of Mr. N. K. Basu, that what the Hon'ble Member in charge of Police could not do, the Hon'ble Minister is trying to do that by enacting this legislation.

Mr. PRESIDENT: Order, order. I might tell you at the outset that you are not supposed to deal with the Bill as a whole. A particular clause is before the House at the present moment, and you must confine your remarks to that particular clause.

Mr. P. BANERJI: Yes, Sir. I refer to clause 4. By this clause the Minister in charge of Local Self-Government is taking away the essence of self-government from the Corporation in matters of internal administration. May I inquire how it will be possible for a public body to have its orders translated into action if its officers are not

appointed according to its own choice, but appointed by somebody else. The very idea is absurd. Sir, I would point out two facts: It has been said that persons who have offended against the State should be debarred from all kinds of appointment for all time to come and only those persons—ordinary criminals convicted of ordinary offences—will be automatically condoned after five years. Is it not an absurd proposition? Is it not in the interest of the Corporation that criminals should for all time to come be shut out. The Act of 1923 says that such persons, that is ordinary criminals, must be debarred from any service under the Corporation. But here the Minister who claims to be in charge of a nation-building department —and this is the funniest part of the thing—says that if the nation is to be built up, then our children must be taught by those teachers who are in the confidence of Government. Sir, we have seen that from the year 1835 when this secondary education was introduced in this country right up to the present time the policy of the Government—a foreign Government—has been not to educate our people—our children—in our own way so that they may follow the present awakening all over the world, because they know that by so doing the people will not submit to them. That is the present day policy, and I say thousand times that it is a mischievous policy. The Hon'ble Minister said that it was not mischievous when Mr. Syamaprosad Mookerjee——

Mr. PRESIDENT: I am afraid you are again making an attempt to reply to a previous debate. You should remember that I have very positively and clearly ruled that it is not open to a member to reopen a debate which has already been closed.

Mr. P. BANERJI: Very well, Sir, I will not do so in future. I say this is mischievous and I say that the first duty of the Minister, when he claims that he is in charge of a nation-building department, is to allow the Corporation to educate our children in our own way. We all know that the present day curriculum is daily changing. Exception has been taken by the Minister to certain appointments in the Education Department of the Corporation. He said that the persons who were appointed by the Corporation were not wanted by Government. I submit, Sir, that it is the intention of the rate-payers of Calcutta that their children should be educated in the Corporation schools where the teachers are appointed according to their own judgment and not according to the dictation of somebody else. I wish to submit, Sir, that this clause has been divided into two groups: one group deals with persons that have offended against the State and they will never be appointed. Therefore, I say, Sir, why should this measure be introduced by the Minister when he admitted that these

men were appointed only in some cases, whereas Government appointed persons convicted even of offences involving moral turpitude. His point was that these persons were politicians and statesmen. How does he know that? The convicted persons appointed by the Corporation may not be statesmen according to the Minister's idea, but I say that they are the greatest of statesmen. The main point is that you are shutting out persons convicted of offences against the State although their offences do not involve any moral turpitude, while you are allowing persons convicted of ordinary crimes to come in if their term of imprisonment is not more than three months; in the original Bill this term was six months; and then, Sir, they will be automatically condoned after five years. As has been suggested by Mr. Shanti Shekhareswar Ray, I ask why of all persons the political offenders should be debarred from appointments. It has not been definitely stated who are political offenders. Does it mean that any offence against the State should be considered as a political offence? Supposing any person goes and shouts in the name of the motherland or sells cloths and asks his own people to use countrymade goods: will it be a political offence? Government have always said that we can support Indian industries: at the same time, when any member of the public goes out and suggests such a thing to his fellow-men he is automatically sent to jail. For such an offence why should a person be debarred from getting employment under the Corporation? That is my point. Why should persons convicted of such offences as non-violent non-co-operation be debarred from entering the Corporation's service. Therefore, I say and say without fear of contradiction that taking advantage of the present situation, the Hon'ble Minister in charge of Local Self-Government is trying to see that a particular group of people does not find a place in the Corporation. May I inquire of him—who will be in the Corporation? At least one party or the other will be in power. He said the liberal party was nowhere and the two wings of the Congress party fought the election. If it is suggested that there is a motive behind it, he will naturally say that there is no such thing. I dare say that taking advantage of the political situation of the country at present, the Minister has brought forward this Bill. He being a popular Minister in charge of the Local Self-Government Department, is it meet and proper on his part to take advantage of the present political situation in the country? I think he should be well advised to accept the amendment, and if he does not do so, I should ask him to resign and seek re-election. That would be the only constitutional method for him to follow.

Maulvi ABDUS SAMAD: Sir, I support this motion, and I shall be very brief. The only justification for the introduction of clause 4 is that the Corporation has deliberately misused its power by appointing terrorists, murderers and dacoits and also appointed some teachers,

about 30 out of a total of 1,200, in the primary schools who were connected with the civil disobedience movement. As regards the appointment of terrorists, murderers, etc., it has been shown on the floor of this House that that statement is not correct. It has not been proved that the Corporation has knowingly appointed any murderer or dacoit. It is admitted that they did appoint a few teachers who were connected with the civil disobedience movement. Civil disobedience movement was not a crime. It was considered as a legitimate means for winning freedom, and it was made an offence only by the promulgation of the ordinance. So far as our information goes, the appointment of those persons who were connected with the civil disobedience movement was made before the promulgation of the ordinance. Unless it can be proved that the Corporation in utter disregard of the ordinance appointed persons convicted for joining the civil disobedience movement, the introduction of this clause is unnecessary. Government ought to have waited and seen how the Corporation behaved in the future, but no opportunity has been given to the Corporation to mend its way. Instead of that, Government have brought in this Bill in hot haste. I know the Minister is confident of his victory in this House, and therefore he may not budge an inch and may insist on the retention of the clause. But his strength lies not in the strength of his case but in the weakness of the opposition in this Council. Whatever may be the result of this motion, it is a fact that this measure will be very unpopular and will be resented by the public. Anybody who has read the newspapers must have noticed that the public opinion is against this measure, and the Hon'ble Minister ought to have some respect for public opinion. He would have been well advised to keep the sword hanging over the head of the Corporation instead of striking it. It is highly unpatriotic on the part of the Minister to introduce this clause.

Mr. W. H. THOMPSON: Sir, you have already ruled that continuous repetition of a matter which has already been discussed in full in this House should not be permitted. You have in your discretion the power to stop a member who persists in these repetitions. I would like to assure you that from this side of the House you will have our whole-hearted support if you take up a strong attitude in this matter. The only alternative would appear to be to hold an all-night sitting to expedite the business.

Mr. NARENDRA KUMAR BASU: Is that a point of order?

Mr. PRESIDENT: Mr. Thompson has suggested that I should more rigorously prevent repetition of arguments. But, mere repetition is no crime provided the same arguments are put in different impressive ways, differently clothed. Besides, I am reluctant to restrict freedom

of speech as far as I can help it. I have, however, made it clear that there is now only one clause of the Bill before the House and members should confine their remarks to that only. When a member rises to speak, he must realise his responsibility and should be able to make fresh and substantial contribution to the debate.

Mr. W. H. THOMPSON: But if his speech shows that he is unable to do so, would it not be right to call him to order and ask him to sit down?

Mr. PRESIDENT: You may leave that to me.

Mr. B. C. CHATTERJEE: Sir, I am very thankful to you that you have absolutely ignored Mr. Thompson. Up till now I have never heard of a member advising the President in this way. Mr. Thompson is an ex-member of the Indian Civil Service and the spirit of bureaucracy is still very dominant in him, and that is why he thinks that he can lecture the House as well as the Chair.

Mr. PRESIDENT: Order, order. The Chair can take care of itself. I do not think that Mr. Thompson ever implied that the Chair was not doing its duty.

Mr. B. C. CHATTERJEE: But he could have said what he intended to say privately and not in this fashion.

Mr. PRESIDENT: Order, order. I may tell you that I always welcome suggestions from the members of the House. I am prepared to weigh in the balance any advice that may be given to me, openly or privately, provided it is given in the right spirit and with becoming manners. It is a pleasure to me to accept a good advice. If it is not of the right sort, I shall certainly reject it.

Mr. B. C. CHATTERJEE: In the present case I think you did not consider the advice offered by Mr. Thompson to be pleasant.

Mr. PRESIDENT: It was not unpleasant, but it was superfluous. However, as it is already quarter past seven and it is time for us to adjourn, you may speak on the motion on Monday next.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 4th September, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 4th September, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 112 nominated and elected members.

Obituary reference.

Gentlemen of the Council: Words fail to express the horror and indignation one feels at the dastardly murder of Mr. Bernard Burge on Saturday last at Midnapore, whereby another civil servant while doing his duty has been prematurely cut down at the hands of cowardly assassins. The infamous assassinations of James Peddie and Robert Douglas have already stigmatised Midnapore and this black deed will undoubtedly deepen and darken the stains on her brow and tarnish her name for all time to come. Bengal must rise to a man and woman not only to condemn these outrages but also completely eradicate the malignant cancer—or shall I express it better as virus—of manslaughter. I realise my responsibility when I say that terrorism must go out of our land more in the interest of Indians than in the interest of Britons. We must save our magnificent history, our great religion, and our ancient civilization. We must not bring down upon us the wrath of God and thereby wreck our mission to work out the salvation of our great and glorious country through Britain. A British officer has been shot dead at the post of duty and we must condemn the crime thus perpetrated with all the emphasis in our command. We must do all that lies in our power to prevent such acts of violence as sins against God and man. A nation cannot afford to ruthlessly tear itself away from its history, religion or civilisation and advance leaving them behind to take care of themselves.

Our thoughts specially go out to the bereaved widow, and we wish with our heart that the Almighty will give strength to sustain her in the terrible loss she has sustained. The late Mr. Burge was

not unknown to us here as he was a member of this Council from August to December, 1928, and took an active interest in the passing of the Bengal Tenancy (Amendment) Act.

I would now propose, with your approval, to convey on behalf of this House our deep and profound sympathy to the bereaved widow and family at the sudden and terrible loss they have sustained; for, you all know that Mr. Burge was in the prime of his life and was a brilliant officer with a promising career before him. It is really nothing short of a tragedy—and I want the House to realise the enormity of the loss.

I would now ask the members to rise in their seats as a mark of respect to the memory of the deceased gentleman.

(Pause.) (Pause.)

All the members then rose in their places.

Mr. PRESIDENT: Thank you gentlemen. The Secretary will now take the necessary steps.

STARRED QUESTIONS

(to which oral answers were given)

Recruitment of depressed class to offices of District Officers and Wards' Estates.

***150. Babu HEM CHANDRA ROY CHOUDHURI:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) the minimum qualification for the post of clerks in the offices of the Collector, District Magistrate, and Court of Wards;

(*ii*) the total number of appointments made in each of those offices of the Noakhali district during the period from January, 1932, to June, 1933;

(*iii*) the number of appointments given to the members of the depressed class Hindus;

(*iv*) the percentage of present incumbents from the depressed class Hindus in each of these offices to the total number of posts?

(*b*) Is the Hon'ble Member aware that there is a number of matriculate, under-graduate and graduate candidates from the depressed class Hindus in the Noakhali district?

(*c*) Is the Hon'ble Member aware that the District Judge of Noakhali invited petitions from graduates only for the post of clerks in his office and that appointments were made by competitive examination?

(*d*) Is the Hon'ble Member aware that the members of the depressed class Hindus could not stand competition with the members of the other communities in the said examination?

(*e*) Are the Government considering the desirability of setting apart a percentage of these posts for qualified candidates of the depressed class Hindus?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) In the district offices candidates are required as a general rule to have passed the Matriculation examination.

For Ward's Estates no minimum qualifications are specifically laid down, but the Manager who has powers to make appointments up to Rs. 50 per mensem satisfies himself that the qualifications are sufficient for the discharge of the duties.

(*ii*) District office—7. Manager's office—11.

(*iii*) No Hindus belonging to backward classes were appointed.

(*iv*) District office—1·28 from backward classes. Manager's office—Nil.

(*b*) So far as Government are aware members of the backward classes possessing such qualifications apply for appointment but the number is not known.

(*c*) Applications were invited from graduates, but one vacancy was set apart for a candidate from the backward classes.

(*d*) There was only one candidate from the backward classes and he did not do well in the test.

(*e*) Government are not prepared at present to go further than is laid down in the Appointment Department memo. No. 3540-3554-A., dated the 28th April, 1931, a copy of which will be found on the Library table.

Babu HEM CHANDRA ROY CHOUDHURI: Has the general rule referred to in answer (*a*) (*i*) obtained the approval of Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: If the hon'ble member refers to my answer (*e*), he will find that it certainly has the approval of Government.

Babu HEM CHANDRA ROY CHOUDHURI: In view of the fact that Matriculates are eligible for posts in District Offices, why were applications invited only from graduates?

The Hon'ble Sir PROVASH CHUNDER MITTER: If better candidates can be obtained, there is no reason why they should not be taken in.

Babu HEM CHANDRA ROY CHOUDHURI: Are not the Matriculates capable of discharging the duties of clerks in the District Offices?

Mr. PRESIDENT: I am afraid I cannot allow that question.

Small-pox epidemics in Bengal.

*151. **Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the Director of Public Health, Bengal, has information to state the number of persons unprotected by vaccination in each district and what proportion of that number is female?

(*b*) How many epidemics of small-pox broke out in each district during the year 1932-33?

(*c*) How many males and females were affected?

(*d*) How many of them were protected before attack amongst the males and females?

(*e*) How much time was taken to get information of the outbreak of such epidemics?

(*f*) What period did each epidemic take for complete subsidence in each locality?

(*g*) Was any arrangement made to give facilities for the vaccination of the *Purdahnashin zananas* in such affected localities where vaccination by male vaccinators was not possible?

(*h*) If the answer to (*g*) is in the affirmative, was any greater progress noticed in this direction in controlling small-pox epidemics by engaging female vaccinators?

(*i*) Are the Government considering the desirability of making it a condition at the time of making grants to the district boards that such money is meant specially for providing female vaccinators at the time of epidemics?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No.

(*b*) and (*f*) A statement is laid on the table.

(*c*), (*d*), (*e*), (*g*) and (*h*) It is not possible to reply to these questions without making special inquiries from local bodies which would entail an expenditure of time and money incommensurate with the value of the information when obtained. Government regret therefore that they are not prepared to undertake them.

(*i*) No. This condition was made till 1929, when it was dropped after it had proved unworkable.

Statement referred to in the reply to starred question No. 151 (b) and (f), showing the reported outbreaks of small-pox epidemics in the districts of Bengal during the year 1932-33.

Districts.	Period of outbreak.	Period of subsidence.
Burdwan ..	1st—April, 1932 ..	Middle of August, 1932.
	2nd—November, 1932 ..	August, 1933.
Midnapore ..	January, 1933 ..	March, 1933.
Howrah ..	1st—April, 1932 ..	June, 1932.
	2nd—February, 1933 ..	June, 1933.
24-Parganas ..	February, 1933 ..	July, 1933.
Khulna ..	End of February, 1933 ..	Middle of March, 1933.
Dinajpur ..	April, 1932 ..	Middle of September, 1932.
Rangpur ..	February, 1933 ..	July, 1933.
Mymensingh ..	1st—April, 1932 ..	July, 1932.
	2nd—End of December, 1932	February, 1933.
Faridpur ..	Middle of December, 1932 ..	January, 1933.
Bakarganj ..	Latter part of February, 1933	Latter part of March, 1933.
Chittagong ..	Latter part of April, 1932 ..	July, 1932.
Noakhali ..	February, 1933 ..	July, 1933.

Scheduled castes.

*152. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state whether the Government have come to a final conclusion regarding the castes that are to be included in the scheduled castes of Bengal?

(*b*) If the answer to (*a*) is in the negative, how long will the Government require to come to a final decision on the point?

(c) If a final decision has already been come to, will the Hon'ble Member be pleased to state—

(i) which are the castes included in the scheduled castes;

(ii) which are the castes which have been included in the scheduled castes in spite of protest;

(iii) which are the castes which have been so included in the scheduled castes without any protest; and

(iv) what are the reasons in each case for including castes, which have protested against their inclusion in the scheduled castes, in spite of such protests?

(d) Has the attention of the Government been drawn to the opinion recently expressed by Dr. Rabindra Nath Tagore disapproving the Poona Pact?

(e) If the answer to (d) is in the affirmative, are the Government going to make any further representation to His Majesty's Government in England on the subject?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Sir William Prentice): (a), (b) and (c) The member is referred to the replies given to starred question No. 69 asked by Mr. Ananda Mohan Poddar and unstarred question No. 41 asked by Mr. R. Maiti in the present session of this Council.

(d) A Press report has been seen.

(e) No. The member is referred to paragraph 4 of the Communal Decision.

Bengal Judicial Service.

*153. **Rai Sahib SARAT CHANDRA BAL:** (a) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(i) the University qualifications, names and castes of persons appointed in the Bengal Judicial Service, year by year, during 1925-33; and

(ii) how many of such persons belong to the scheduled castes of Bengal ?

(b) Is the Hon'ble Member aware that qualified candidates from scheduled castes are available for appointment in the Bengal Judicial Service?

(c) Is it a fact that only one Munsif, Mr. Atul Behari Mallick, belonging to the scheduled castes of Bengal, has been appointed since the creation of judicial services?

(*d*) What steps, if any, do the Government intend taking in the matter?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) For information regarding the names and qualifications of the persons appointed to the Bengal Civil Service (Judicial) during 1925-33 the member is referred to the entries in column 2 against Nos. 167-240 of the list of Munsifs and Nos. 1-47 of the list of officiating Munsifs, in the Half-yearly Civil List corrected up to the 1st July, 1933. As regards the castes of Nos. 167-240 of the list of Munsifs excluding the Muhammadans, all belong to Brahmin, Vaidya, or Kayastha caste except Nos. 215 (Vaishya), 225 (Barujibi), and 229 (Ugra Kshatriya).

As regards Nos. 1-47 of the list of officiating Munsifs, the information regarding caste of all of them is not available at present, but of them Nos. 3, 23 and 39 professed themselves as belonging to the "depressed class."

(*a*) (*ii*), (*b*) and (*c*) As the final list of scheduled castes has not yet been published Government are unable to reply to these questions.

(*d*) When the final list is published, the High Court will be addressed on the subject as under the law selections for appointments are made by that authority.

Local holidays for Moslem festivals.

***154. Maulvi TAMIZUDDIN KHAN:** Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) the number of executive and local holidays recently sanctioned by Government to be observed on the occasion of Moslem religious festivals; and

(*ii*) the year for which these holidays are proposed to be observed?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*i*) and (*ii*) No non-Act holiday has been sanctioned for a Moslem festival, nor is it proposed to sanction any such holiday. Orders sanctioning local holidays for certain Moslem festivals will, it is hoped, be issued at an early date.

Rai Bahadur KESHAB CHANDRA BANERJI: Will these local holidays take the place of those already sanctioned on account of the religious festivals of other communities?

The Hon'ble Mr. J. A. WOODHEAD: In some cases, yes.

Maulvi TAMIZUDDIN KHAN: Has any non-Act holiday been allowed to any Moslem festival?

The Hon'ble Mr. J. A. WOODHEAD: No, Sir.

Rai Bahadur KESHAB CHANDRA BANERJI: With regard to the answer given in the affirmative to my supplementary question, I should like to know why the holidays enjoyed by other communities should be affected?

The Hon'ble Mr. J. A. WOODHEAD: Partly because the total number of local holidays is limited to 7.

Objectionable posters exhibited in public places in Calcutta and mufassal towns.

*155. **Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether the attention of the Government has been drawn to the obscene and objectionable posters exhibited in public places in Calcutta and some *mufassal* towns to attract visitors to the various cinema houses?

(*b*) Have the Government considered the question that such posters are calculated to produce very harmful effects, both moral and physical, upon young men and women, particularly students?

(*c*) What steps, if any, do the Government intend taking to check this evil?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) No.

(*b*) and (*c*) Do not arise.

Cinema Houses in Calcutta.

*156. **Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether the attention of the Government has been drawn to the fact that Cinema Houses in Calcutta and some *mufassal* towns occasionally exhibit films which have a very demoralising effect upon the minds of the people?

(*b*) If the answer to (*a*) is in the affirmative, what action, if any, do the Government intend taking in the matter?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) No.

(*b*) Does not arise.

Reverend B. A. NAG: Is the Hon'ble Member aware that the people of India consider many of the films as objectionable?

The Hon'ble Sir WILLIAM PRENTICE: All the films are passed by a Committee on which the people of various communities are represented. Presumably, they do not consider them to be objectionable.

Reverend B. A. NAG: Is the Hon'ble Member aware that some of these pictures lower in the minds of Indians the estimation of the people represented in them?

The Hon'ble Sir WILLIAM PRENTICE: That is a matter of opinion.

Rai Bahadur KESHAB CHANDRA BANERJI: Are there any orders going to be issued for more strict censorship of these films?

The Hon'ble Sir WILLIAM PRENTICE: The duties of the Committee are well known to them.

Dr. NARESH CHANDRA SEN GUPTA: Are the Government taking any steps to go into the question and, if possible, lessen the rigour of censorship. (Laughter.)

(No answer was given.)

Strictures on Government officials in High Court judgments.

***157. Mr. W. H. THOMPSON:** (*a*) Has the attention of the Government been drawn to certain recent judgments of the Hon'ble High Court containing strictures on the Chief Presidency Magistrate and other Government officers including the Law Officers of the Crown?

(*b*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the Government have held, or propose to hold an inquiry regarding these strictures?

(*c*) If such inquiry has been held, will the Hon'ble Member be pleased to state the conclusions reached?

(*d*) If such inquiry is considered unnecessary, will the Hon'ble Member be pleased to give his reasons for considering it so?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) Yes.

(*b*), (*c*) and (*d*) These judgments are having the careful consideration which they merit, but neither convention nor courtesy permits of Government now or at any future date making public their conclusions on such *obiter dicta* in the judgments delivered by the Hon'ble High Court.

Mr. W. H. THOMPSON: Could not the Hon'ble Member, without disclosing what Government really think about these *obiter dicta*, indicate whether it is intended that the officers who have been criticised shall be retained in their appointments?

The Hon'ble Sir WILLIAM PRENTICE: In a delicate matter like this, I regret I have nothing to add to the considered answer.

Mr. W. H. THOMPSON: Will these officers be dismissed on the strength of the judgment?

The Hon'ble Sir WILLIAM PRENTICE: I have already given my answer.

Bengali midwives.

***158. Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether there is sufficient arrangement for the training of Bengali midwives in a maternity nurse course to enable them to take up *Dai* training classes, and run maternity and baby clinics?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing for the last five years—

(*i*) the cost of training such staff;

(*ii*) how many Bengali women have been trained; and

(*iii*) how many are engaged?

(*c*) What contribution is made by the Government for such a training?

(*d*) Has the Hon'ble Minister any information that the Red Cross Society is taking any steps for the organisation of maternity and baby clinics at the district and subdivisional headquarters?

(*e*) If the answer to (*d*) is in the affirmative, how many such centres have been organised within the last five years and what contribution was made by Government to such centres?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No. Bengal midwives are not taught up to this standard. *Dai* training classes are conducted by doctors, and maternity and baby clinics by doctors or by fully trained nurses.

(*b*) and (*c*) Do not arise.

(*d*) No.

(*e*) Does not arise.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Caning of boys in Government schools.

59. MUNINDRA DEB RAI MAHASAI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether caning of boys is allowed in Government schools? If so, under what conditions and restrictions?

(*b*) Is the Hon'ble Minister aware that four boys of the Hooghly Collegiate School were on the 21st July last caned by the head master causing profuse bleeding?

(*c*) If the answer to (*b*) is in the affirmative, are the Government considering the desirability of taking steps against the head master and of preventing such caning in future?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Yes, caning is allowed. It is to be administered by the head of the institution only and in such a way as to inflict pain without bodily injury.

(*b*) Four boys were caned by the head master on the 21st July, but Government are not aware that profuse bleeding was caused.

(*c*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Is there a Government circular specifying the part of the body where such punishment is to be inflicted?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Babu SATYAKINKAR SAHANA: Has an Instrument of Instructions been supplied to the heads of the institutions administering caning to regulate the force of inflicting pain without bodily injury?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, Sir.

Dr. AMULYA RATAN GHOSE: Has the Hon'ble Minister made any inquiry of the fact as alleged in question (*b*) that there was no profuse bleeding?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The doctor's report says that there was no profuse bleeding.

Mr. NARENDRA KUMAR BASU: For what offence were these boys caned?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I am not prepared to give this information. The School Managing Committee were quite satisfied that the action taken by the Head Master was justified.

Dr. NARESH CHANDRA SEN GUPTA: Is the Hon'ble Minister aware that most of our modern educational authorities deprecate corporal punishment of this kind as demoralising to the boys?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Caning is sanctioned according to the Education Code of Bengal.

Mr. C. R. DAIN: Sir, would it not have been better if all of us had a little more caning in our school days? (Laughter.)

(No reply was given.)

Babu SATYA KINKAR SAHANA: What action do the Government take in case where bodily injury is done?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It would depend on the case when it comes up before Government.

Mr. SHANTI SHEKHARESWAR RAY: What is the maximum number of stripes that can be inflicted under the Education Code?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There is no maximum number prescribed.

Khan Bahadur Maulvi AZIZUL HAQUE: May I ask whether or not the questions of this character will altogether diminish discipline in schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: In view of the fact that the School Committee has dealt with this question, I think my hon'ble friend's question will not serve any useful purpose.

Ferry accidents in Bengal.

60. MUNINDRA DEB RAI MAHASAI: (*a*) Will the Hon'bl Minister in charge of the Local Self-Government Department be please to state whether the attention of Government has been drawn to series of ferry accidents in rivers in Bengal carrying away a good man human lives?

(*b*) Is the Hon'ble Minister aware that, in most of these cases, th accidents are due to such causes as overloading, inefficiency of *majhi* and *dandis*, inefficient supervision by the local bodies, as was reveale in the report of an inquiry held by the Sadar Subdivisional Officer Chinsura, into the boat accident in the river Hooghly at Chinsura on 9th May, 1931?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'bl Minister be pleased to state what steps, if any, do the Government pro pose taking to ensure efficient supervision over the ferry services?

(*d*) Will the Hon'ble Minister be pleased to state whether th attention of Government has been drawn to the various suggestion made in this connection by Sj. Balai Chand Adhya in his letter, date 30th May, 1931, following the aforesaid Chinsura boat disaster?

(*e*) If the answer to (*d*) is in the affirmative, are the Governmen proposing amending the rules on the lines suggested?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) Yes

(*c*) Government issued executive instructions in 1932, which would in their opinion be adequate, if observed, to ensure efficient supervision over ferry services.

(*d*) Yes.

(*e*) The suggestions were considered before the instructions of 193 were issued. No further alteration of the rules is contemplated.

Babu HEM CHANDRA ROY CHOUDHURI: Are the Govern ment aware that there has been a loss of about 100 lives very recently in the district of Noakhali due to a boat disaster?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, there was a Government resolution on the matter.

Babu HEM CHANDRA ROY CHOUDHURI: What steps is it proposed to take?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I would refer the hon'ble member to the Government resolution.

School of hygiene in Calcutta.

61. Maulvi TAMIZUDDIN KHAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state for how many years a scheme of school hygiene work has been in operation in the city of Calcutta?

(*b*) Has the scheme been made permanent? If not, why not?

(*c*) Has the scheme been working satisfactorily?

(*d*) What are the pay and prospects of the school medical inspectors under this scheme?

(*e*) Are the Government considering the desirability of improving their status?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The scheme for the medical examination of pupils in Government and aided secondary schools for boys in the city of Calcutta has been in operation since 1928-29.

(*b*) No: it was started as an experimental measure and has not yet been made permanent owing to the financial stringency.

(*c*) Yes.

(*d*) They are part-time officers each getting a monthly allowance of Rs. 50.

(*e*) The question will be considered when the financial condition of the province improves.

Maulvi TAMIZUDDIN KHAN: How many students each doctor has to examine annually on an average?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I should like to have notice.

Maulvi TAMIZUDDIN KHAN: Are not some of the schools situated at a great distance of one another?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, some of them are.

Maulvi TAMIZUDDIN KHAN: Do the doctors get any travelling allowance?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No. The sum of Rs. 50 covers everything.

Rai Bahadur KESHAB CHANDRA BANERJI: Is the school hygiene work carried on in Dacca and other districts?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: If the hon'ble member waits till the last question, he will have his answer.

Rai Bahadur Dr. HARIDHAN DUTT: What is the average annual expenditure for the scheme?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Primary schools and maktabs for boys.

62. Maulvi ABDUL GHANI CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table showing for the present—

(*i*) what is the number of primary schools and maktabs for boys in the whole Presidency; and

(*ii*) how many primary schools are there in Bengal for male teachers?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) 28,030 primary schools and 15,688 maktabs.

(*ii*) There are no primary schools for male teachers; but there are 6 Muallim Training Schools and 80 Guru Training Schools, where primary school teachers are trained.

Maulvi ABUL QUASEM: In reply to (*ii*), is this number of teachers considered to be sufficient for 15,688 maktabs?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Guru trained teachers are also qualified to be teachers in the maktabs.

School Hygiene in Government schools.

63. Maulvi TAMIZUDDIN KHAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Government have a scheme for school hygiene work in Government schools in the *mufassal* ready to be put into operation?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) what is the scheme;

(*ii*) when do the Government intend to put the scheme into operation; and

(*iii*) what will be the pay and prospects of the school medical inspectors under this scheme?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) There is a scheme for the medical examination and supervision of pupils in Government high schools and senior madrasahs, outside Calcutta, and in hostels attached to them.

(*b*) (*i*) A copy of the scheme as approved in Government Order No. 3779-Edn., dated 20th November, 1929, is placed on the Library table.

(*ii*) An attempt will be made to introduce the scheme as soon as financial conditions improve and the additional funds required for the purpose are available.

(*iii*) The member is referred to paragraph 2 of Government Order No. 3779-Edn., dated 20th November, 1929.

Khan Bahadur Maulvi AZIZUL HAQUE: Why is it that no money has yet been found for the purpose?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because when the scheme came up before Government we were faced with a deficit budget.

Khan Bahadur Maulvi AZIZUL HAQUE: Is economy being practised since 20th November, 1929?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: As I have said, we started with a deficit budget.

Rai Bahadur KESHAB CHANDRA BANERJI: Has the school hygiene been suspended in Dacca?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I should like to have notice.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Calcutta Municipal (Amendment) Bill, 1933.

Clause 4.

Mr. PRESIDENT: We were discussing clause 4, and Mr. B. C. Chatterjee was in possession of the House, if I am not mistaken.

Mr. B. C. CHATTERJEE: Sir, with reference to clause 4, which refers to section 54A, we find that the framers of the Bill want Government to sanction appointments of men who may have suffered imprisonment for three months. I submit, Sir, with the greatest respect, that this particular provision is going to work very hard. because, as we all know, people may have been found technically guilty on a charge of picketing. At one time, Sir, picketing was not an offence. More than a year ago I defended Satindra Nath Sen before a learned Muhammadan Magistrate, who was then acting as the Chief Presidency Magistrate——

Khan Bahadur MUHAMMAD ABDUL MOMIN: Why do you say "Muhammadan"?

Mr. B. C. CHATTERJEE: Well, because he was a Muhammadan. Satindra Nath Sen was charged before this gentleman with picketing, and the Magistrate held that picketing was no offence, and that is exactly what I had ventured to argue before him too. Later on, the law was changed and picketing was made into an offence.

Now, Sir, a man can be punished for saying to his countrymen "Don't buy any goods excepting Indian ones." I say that when a man is punished for making such a request of his countrymen it becomes dangerous if that man is also to be excluded from any appointment under the Calcutta Corporation on that ground. Only the other day I was sitting in the House of Commons, and I heard Mr. Lansbury saying repeatedly that every Government must take very great care to see that mere opinion was not punished, that a man be not penalized merely for holding an opinion. He gave two instances of his imprisonment on the ground that he held a certain opinion which, for the time being, did not find favour with the authorities. I would also ask the Hon'ble Minister to remember what Mr. Stanley Baldwin said in his speech at Manchester, *viz.*, that the Indian has every right to say that his countrymen ought not and shall not buy goods except such as are

made in India. If he advocates at the same time picketing of goods other than Indian, he merely fulfils a patriotic duty, and his right cannot be hampered in that respect. That being so, I would ask that some qualifying clause should be added to this particular section as it stands. You should add "if a man had suffered three months' imprisonment for an offence which involved moral turpitude or an element of violence....." because although everybody has a right to tell his countrymen that they should not buy goods except those made in his country, he has no right to enforce that request with violence or with an attempt at violence. If he approaches a man against his wishes, then he is liable to be punished, for every man has the freedom to buy as he pleased—that I can understand. But unless some such qualification is put in, it would cause very great harassment to a lot of people who honestly hold the opinion, and themselves practice it, and are ready to suffer for that opinion. If anybody, who is a picketer, and is sentenced to three months' imprisonment, but who has committed no violence or even attempted to commit violence or anything of that sort, is going to be debarred from service under the Corporation, I submit, Sir, this kind of thing should be impossible under any law in any country, which calls itself civilized. Therefore, I would appeal to the Hon'ble Minister to add in some such clause as "involving moral turpitude," or, alternately, "has committed violence or made an attempt at violence."

With these words, Sir, I conclude.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, in speaking on this amendment I want to make an eleventh-hour appeal to the Hon'ble Minister and to the members of this House to consider what the effect of this clause would be. I may say at the very beginning that I am not making an appeal to that section of the House, which finds itself here by a stupid provision in the constitution regulating affairs of which they know nothing, excepting that their shaking of the pagoda tree may be interfered with, or those in whose interests the Bill has been promoted, because they found that the Corporation was able to take away contracts from their rapacious hands.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Supposed by Mr. Narendra Kumar Basu only, I believe.

Mr. NARENDRA KUMAR BASU: It may be that, but I am making this appeal to other sections in this House and to the Hon'ble Minister.

Sir, here is a big local body supposed to be autonomous. And not only that. I have had it in the words of the Local Self-Government Secretary himself in his letter, to which reference was made by the

Hon'ble Minister the other day, in his speech—I mean letter No. 2960M., dated the 1st July, 1932,—in which the Local Self-Government Secretary stated that the Calcutta Municipal Act, 1923, had placed the Calcutta Corporation on an extremely democratic basis, with its constitution having been considerably enlarged. Then, Sir, the words which follow are very important:—"By reducing Government's control over its internal administration to a minimum." Well, Sir, here is a body of this description which I may add gets no financial help from Government. According to the statute, as it now stands, it has to get the sanction of Government to the appointment of several high officers—not all. The proposal made in this Bill is that the Local Government will interfere in the appointment of all the officers and servants under this great body. I submit, Sir, that there is really no justification for this demand on the part of Government. As we are all aware and as you know, Sir, even in the case of district boards and municipalities in the *mufassal* Government have not reserved any such power. In the case of unaided schools, too, I take it that Government have not reserved any such powers. But so far as this great Corporation is concerned, this power is going to be taken; and I submit, Sir, that there is very little reason for this. I need not pursue the misrepresentations made in the pamphlet that was circulated regarding this matter, because those misrepresentations have been "shown up" and the Hon'ble Minister has disowned all responsibility for this pamphlet. I regret that the Hon'ble Sir William Prentice is not here, but I would like to tell him that these two pamphlets that were circulated to us clearly violate the provisions of the law so far as the Press Act is concerned, in not having mentioned the name of the printer or of the publisher in them. It may be that the magic letters in small type at the end of each pamphlet, *viz.*, B. G. Press, show that they were printed at the Bengal Government Press. Speaking for myself, Sir, I have had the pleasure of knowing the Superintendent of that Press, *viz.*, Mr. Battersby, having worked with him in a Committee. But I am quite sure that he had no suspicion that he was qualifying to be a great romancer as the author of these pamphlets has proved to be; nor do I take it that Mr. Battersby is responsible for the non-mention of the names of the printer and the publisher of these pamphlets. However, that is another matter. I should ask the House—and, especially the Hon'ble Minister—whether it is necessary on the facts stated by him that a provision of this description should be added.

Sir, as far as I could follow the speech of the Hon'ble Minister the other day he was evidently in a temper against the Corporation. He thought that by trotting out some familiar phrases, phrases heard of in other spheres, he could sufficiently and mortally condemn the Corporation. For example, he stated that the Corporation was impertinent in its reply to Government letters: he further stated—and I am quoting

from the very letter from which I read out a few lines just now—that the Corporation wanted to run a parallel Government. I know not where he got that idea from, but perhaps it is just like giving a dog a bad name and then hang it. As regards impertinence, I have just now told you that the letter began by saying that under the present Act Government's control over the affairs of the Corporation was reduced to a minimum. After saying that he touched on the Corporation's delay in replying to Government's letters, audit reports, disposal of business, appointments, contracts and contractors, grants to other public associations, etc.——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. Is the hon'ble member entitled to go beyond the subject under discussion? He is referring to a debate which has already been closed.

Mr. NARENDRA KUMAR BASU: That is not a point of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. Basu is not the judge of whether it is a point of order or not.

Mr. PRESIDENT: I hold that it is a point of order; but I do not think I should prevent a party leader from making introductory remarks. I thought that he would eventually come back to the subject under discussion.

Mr. NARENDRA KUMAR BASU: Exactly, Sir.

Mr. PRESIDENT: I hope you are not going to labour that point.

Mr. NARENDRA KUMAR BASU: May I state, Sir, that the remarks which I have just now quoted are absolutely unwarranted and were made on this very motion by the Hon'ble Minister.

Mr. PRESIDENT: How do you prove that?

Mr. NARENDRA KUMAR BASU: He said this on the motion to delete clause 4.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think so.

Mr. PRESIDENT: I suppose these remarks were made by you on the first day. That stage of the debate, however, was closed by me, and we have already started taking the Bill, clause by clause. Now the debate must be confined to the clauses as they come before the House one after another.

Mr. NARENDRA KUMAR BASU: Quite so. May I remind you that after the present amendment was moved by Dr. Sen Gupta, the Hon'ble Minister spoke in opposition, and after that several other members spoke before me. I took down certain passages from the Hon'ble Minister's speech in opposition to this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I distinctly remember the fact that I never referred to that letter in opposition to the present amendment.

Mr. NARENDRA KUMAR BASU: I distinctly remember the Hon'ble Minister said this, and I took it down that the reply of the Corporation to the various points mentioned in the letter was most impertinent and evasive.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I remind the House that I said that in connection with the amendment of Mr. P. Banerji that the Bill be recommitted to Select Committee.

Mr. NARENDRA KUMAR BASU: With great respect to my hon'ble friend, who is a younger man and likely to have a better memory, I must say that I took it down when he was speaking on the present amendment, Sir.

Mr. PRESIDENT: The matter need not be carried any further. You may accept the Hon'ble Minister's statement.

Mr. NARENDRA KUMAR BASU: All right, Sir. I shall accept what the Hon'ble Minister says, and not speak on that.

Sir, you will see that so far as clause 4 is concerned, to delete which this amendment is being debated, sub-clause (*4*) says that "any authority who knowingly appoints a person in contravention of sub-section (*1*) shall, if any payment is made in consequence of such appointment, be deemed for the purposes of this Act to have authorised the making of an illegal payment and so forth." What I was going to submit to the House was this—whether it is meet and proper, if the Corporation seeming to stand on its rights on certain matters does give a reply which is not palatable to Government, to support a legislation of this kind? My submission is that legislation amounts to this, that anybody who wants to enter into the service of the Corporation has to put in a declaration that he was never convicted of any offence. That in itself, Sir, I think, is an element which would take away a lot of good candidates. Secondly, what are the conditions for non-appointment in the Corporation? Anybody who had in his college days had a fight in a football ground and was hauled up before a Presidency

Magistrate, and given three months' rigorous imprisonment and anybody who was awarded simple imprisonment for more than three months on a lesser offence would be debarred from employment under this clause. I submit that this is really not a valid ground for debarring people from taking up appointments under the Corporation. It has also to be remembered that a man who would be disqualified for appointment under this clause as an officer or servant of the Corporation would not be disqualified from becoming an Alderman, a Councillor or Mayor. I want the Hon'ble Minister to consider whether it is fair that in these days of unemployment young men, who, supposing in their college days, were guilty of an affray with somebody or of riot in a public street or in a sense in which somebody were behaving in a way to which they objected, and there was a free fight, no moral oblique attaching to it, whether it is proper that men of that description should be debarred from appointment in the Corporation. Again taking that they are political offenders, there ought to be an attempt on the part of their countrymen to try and wean them away from these wrong ways, and if they have not been convicted of any offence involving violence or moral turpitude, I submit, it ought to be made easier for them to attain a self-supporting status than for other people. Then, again, before I sit down, may I remind the Hon'ble Minister as well as his Secretary—both of them are young men and are not likely to pay much attention to the words of an old man. (A VOICE: You are not an old man.) I have been characterised as an old man and I take pride in it. In this House, I am certainly older than the Minister and the Secretary—what even a much older man than myself said. I am talking of John Stuart Mill, and I would just give a quotation from his book "Liberty": "A State which dwarfs its men in order that they may be more docile instruments in its hands, even for beneficial purposes, will find that with small men no great thing can really be accomplished: and that the perfection of machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which in order that the machine might work more smoothly it has preferred to manage." I ask them in all seriousness to see that they do not by their very efforts make the great Corporation of Calcutta—whether it is as great as the Government of Bengal or not, is not the question; but it is a great Corporation—I ask them kindly to consider that by their action they do not make the great Corporation of Calcutta a home of small minds.

Mr. S. M. BOSE: I am entirely opposed to all these amendments. For one thing, we must safeguard our young boys and girls from being affected by evil influences which might lead them to various forms of law-breaking. We must, therefore, carefully select teachers for them. Further, the main idea underlying this clause 4 of the Bill seems to me

to be that municipal officers who are permanent officials and public servants, should not take part in active politics. That, I take it, is the fundamental idea underlying this clause. Their whole attention, I take it, should be devoted to their work, irrespective of the party in power.

Mr. P. BANERJI: For 24 hours?

Mr. S. M. BOSE: All the time. Sir, the awful tragedy of last Saturday, the deplorable murder of an official, draws pointed attention to the fact that anarchism and terrorism are still with us, and that we must all the time be alert lest the evil influence should spread. Such deeds, Sir, recall to our minds the immense danger that we are exposed to every day. The Bill, I submit, is an attempt to cope with this evil, and, as such, deserves our support. Clause 4, Sir, I submit, is now a very mild one. All possible objectionable features have been purged, and I, therefore, think that it ought to be accepted entirely, as it stands to-day.

Mr. H. P. V. TOWNEND: May I just say a few words on behalf of the Hon'ble Minister. It will be within the memory of the members of this House that on Friday evening when this amendment was moved, the Hon'ble Minister answered it and afterwards certain other speakers got up. If I may say so, no new argument has been put forward by them at all, not one. Mr. Shanti Shekhareswar Ray supported the Government position in a very violent speech; Mr. Chatterjee, who was not present on the occasion of the presentation of the Bill, put forward certain arguments which were put forward before and answered conclusively by the Hon'ble Minister when the Bill was first brought forward in this House and Mr. N. K. Basu merely made an appeal to the Hon'ble Minister. As regards this last speech, I do not think anything need be said.

Dr. Naresh Chandra Sen Gupta's motion was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassen.	Hoque, Kazi Emdadul.
Baksh, Maulvi Syed Majid.	Maiti, Mr. R.
Banerji, Mr. P.	Mookerjee, Mr. Syamaprosad.
Basu, Mr. Narendra Kumar.	Poddar, Seth Hanuman Prasad.
Chatterjee, Mr. B. C.	Rai Mahasai, Munindra Deb.
Chaudhuri, Dr. Jogendra Chandra.	Ray, Mr. Shanti Shekhareswar.
Chaudhuri, Babu Kishori Mohan.	Raut, Babu Hossni.
Choudhury, Maulvi Nural Absar.	Samad, Maulvi Abdus.
Fazlullah, Maulvi Muhammad.	Sen Gupta, Dr. Naresh Chandra.
Ghose, Dr. Amulya Ratan.	Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Ashworth, Mr. G. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Bassir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Allmuzzamen.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohan, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Noridhan.
Edgley, Mr. N. G. A.
Ewasfji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. H.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
McGlunkie, Mr. E. T.
Milter, Mr. G. G.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammed Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nag, Babu Suk Lal.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nichols, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray Chowdhury, Mr. K. C.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satiseswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rohati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Girja Chandra.
Steven, Mr. J. W. R.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

Ayes being 20 and Noes 84, the motion was lost.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 4, proposed section 54A be omitted.

Sir, I am surprised to hear from Mr. Townend that I have given him the impression that I support the position taken up by the Government. Sir, I want to state frankly and unequivocally that I consider the proposal embodied in this proposed section as the most cowardly proposal that has been brought before the House in recent times.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, may I draw your attention to the expression "cowardly" just used by the member?

Mr. PRESIDENT: That is not a happy expression, Mr. Ray.

Mr. SHANTI SHEKHARESWAR RAY: Is it unparliamentary?

Maulvi SYED MAJID BAKSH: More violent expressions have been used in Parliament. Mr. Mardy Jones used the expression "dirty dog."

Mr. PRESIDENT: Order, order. The expression may be withdrawn; it certainly does not add to the weight of your argument.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I withdraw the expression "cowardly." I draw attention to the lack of courage on the part of the Government when I ask Mr. Townend to remember his own statement made on the floor of this House the other day in connection with this Bill. Sir, Mr. Townend gave us to understand that the Corporation of Calcutta was encouraging revolutionary movements in the country, that the Calcutta Corporation was and is an anti-Government body and that they had made it their business, at least that was the gist of his speech, to reward terrorists and others who were working against the Government established by law in this country. I looked up the Civil List the other day and I found that Mr. Townend was a Civil Servant of 20 years' standing. I would not have taken any notice of a statement of this nature from a junior Civilian, but a statement coming from a senior officer like him certainly deserves notice.

Mr. PRESIDENT: What about section 54A? (Laughter.)

Mr. SHANTI SHEKHARESWAR RAY: I am coming to that. If that is the view of Mr. Townend, I wonder why it did not strike him what slur he has passed on the Government of Bengal by that statement. How small the Hon'ble Member in charge of Law and Order must look? Sir, I gave certain arguments in favour of dropping this clause. Of course this section is an important part of clause 4. Practically it embodies the essential feature of that clause. I shall not repeat the arguments that I gave the other day. The matter has been discussed threadbare in this House as well as outside this House. The charges against the Corporation have been met by members of the Corporation and the question is to be decided on merits, and on the strength of the arguments. I do not hesitate to say that there is no justification for a proposal of this nature. Though I do not entertain any hope that any argument that I may produce in support of my view that the proposal should be omitted will make any impression on the Government benches, still, Sir, I think I ought to place before the

House some arguments that came to my mind over the week end. Sir, by this section you are going to debar a large number of people who have been convicted. Sir, is it not hard on them that they should be the victims of such a vindictive policy? Sir, these people were convicted and they have served out their sentence. Was it intended when they were convicted and sentenced that in addition to their sentence they were to suffer this additional disability or disqualification? What right have you got to impose this disqualification on them? Sir, it has been said that this Bill is of a vindictive nature and the Government has brought it to mark its displeasure with the activities of the Calcutta Corporation. To my mind Government is vindictive towards a large number of people who do not belong to the Corporation but have suffered for their country. Sir, in support of the Government's action a pamphlet has been issued under the authority of the Secretary of the Publicity Board with a view to support the Government case. Sir, this pamphlet—Civil Disobedience and the Calcutta Corporation—has at any rate tried to place the issues clearly before the country. But it has been a very poor effort in justification of the Government's measure.

Rai Bahadur Dr. HARIDHAN DUTT: On a point of order, Sir. Is any member entitled to refer to that book?

Mr. PRESIDENT: Why not?

Rai Bahadur Dr. HARIDHAN DUTT: Has the book any stamp of authority?

Mr. PRESIDENT: Yes, it has been issued under the authority of the Publicity Board. But what I want to say is that it is Mr. Ray's clear duty to show why he takes exception to the clause, and how he proposes to improve it. Unless he is able to do that, I must say that he is out to launch a personal attack on somebody and that he is unnecessarily lowering level of the debate.

Mr. SHANTI SHEKHARESWAR RAY: I was challenging the facts contained in this pamphlet.

Mr. PRESIDENT: We are now concerned with a particular clause, and I should now like you to confine your remarks to it. Will you follow my instructions, please?

Mr. SHANTI SHEKHARESWAR RAY: I am going to challenge the position of Government in support of the clause, and naturally therefore I have to refer to some of the arguments expressed by the

Hon'ble Minister and the arguments which have been amplified and further illustrated in this pamphlet. I am not going beyond that; for instance, the Hon'ble Minister has stated that the Corporation had employed three or more terrorists and he left it to us to judge as if there are a good many more who have been employed, and in this pamphlet there is a comprehensive list, and I am going to prove that boiled down this list amounts to nothing.

Mr. PRESIDENT: Order, order. If you have any arguments in support of the amendment, you are welcome to advance them. Otherwise I shall be compelled to say that you are persisting in not following my advice.

Mr. SHANTI SHEKHARESWAR RAY: All right, Sir. I shall follow your instructions.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Mr. SHANTI SHEKHARESWAR RAY: As I was telling the House, Government have not been able to produce any justification for this proposal which is before the House. Even the ally of the Hon'ble Minister, the Secretary of the Publicity Board, has failed to produce any justification. So, in view of the strong feeling expressed in the country as well as in this House against the proposal, I think Government will be well advised in dropping this proposal. I may repeat that the Corporation of Calcutta in the matter of appointments have in no way defied Government either in the past or at the present time. In making appointments there may have been one or two objectionable cases, but even in those cases there is no statement before us that the Corporation refused to dismiss them in spite of the protest of the Government. If there has been an error the Government of Bengal ought to condone it. By the enforcement of this section a great hardship will be caused to a large number of people, the civil disobedience prisoners, who had been sentenced to terms of imprisonment extending over a year for very light offences by Courts held under special Act and after a trial of more or less of a farcical nature. Moreover, it will not serve the purpose of Government in checking the so-called revolutionary activities of the Corporation of Calcutta. It is no use penalising school teachers or the menial servants of the Corporation and leave the authorities alone.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They are not going to be penalised.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am told that they are not going to be penalised, but my reading of the clause, as well as it is understood by the country, is quite different. They think that it would be a great encroachment on the rights of the people and that it will disqualify a large number of people. I shall make a final appeal to the House and also to the Government that they should only bring this into force, if they feel sure that by doing so it would be acting fairly.

Maulvi ABUL KASEM: Cannot all these amendments be taken as read?

Mr. PRESIDENT: Order, order, there is no sense in that.

Mr. SYAMAPROSAD MOOKERJEE: Sir, the other day the Hon'ble Minister while replying to the debate on the motion for the recommittal of the Bill expressed his surprise that I had not given him any detailed illustration when I described the Bill. This clause affords us an ample illustration of the mischievous nature of the Bill. The first question which strikes me is this. On what principle does Government propose to include a clause of this description in the Bill? On what principle does Government propose to control the appointments in the Corporation in this extensive manner? As has been stated by my friend, Mr. Narendra Kumar Basu, Government does not contribute a single farthing as grant to the Corporation for the purpose of enabling it to discharge its manifold activities. I could have understood if the Government had sanctioned any big grants to the Corporation, it might perhaps have afforded it some grounds for claiming to interfere in regard to appointments.

Secondly, it has been stated that so far as this provision is concerned, it is only a logical extension of the existing provisions of the Calcutta Municipal Act. Here again, Sir, I fail to understand the logic of that argument. It is true that there are certain appointments which under the present Calcutta Municipal Act are subject to the approval of Government. Sir, it has been stated that what the Hon'ble Minister is attempting to do is merely to extend the principles underlying such a provision, thus completing the great work of the late Sir Surendranath Banerjea. Sir, I do not appreciate the logic of the argument that, because with regard to some important appointments Government has a controlling voice, therefore Government must be given the power to interfere with regard to all appointments, particularly on political considerations. If the logic of that argument is sound, we may then apply it in other directions as well; for instance, under the present Calcutta Municipal Act the principle of nomination has been partially recognised. The Hon'ble Minister or his supporters might therefore

introduce another amending Bill with a view to extending this principle of nomination and doing away with the system of election altogether, and thus claim that it is nothing but a logical extension of the existing provision of the law, and also that thereby the great work of the late Sir Surendranath Banerjea was being carried into completion! I do not think there is any substance whatsoever in that argument.

On principle it is fundamentally wrong that Government should pass a legislation of this description. We find, as has been stated by several speakers, that the Mayor of Calcutta does not suffer from any such ban, nor do the Councillors and Aldermen of the Corporation of Calcutta, including even the exalted rank of nominated members, suffer from this disability. Ministers of Government do not suffer from this disability also. In fact, as we have been reminded by Dr. Naresh Chandra Sen Gupta, the late Sir Surendranath Banerjea himself had to suffer imprisonment for having had the courage to express his honest opinion on a certain occasion. Now, Sir, if this same spirit of vindictiveness had animated the framers of the Government of India Act, I have no doubt that a man of the outstanding position and ability of the late Sir Surendranath Banerjea would have been debarred from acting as a Minister under the Government of Bengal. The Hon'ble Minister when he was confronted with this question could not give a very satisfactory answer. All that he could state was that they were leaders of men, political leaders, statesmen and so. I have yet to learn, Sir, that if a man happens to be a Minister of Government, he is at once raised to the status of a statesman. He becomes a great political leader and a statesman and, therefore, no such disability can affect him. The Hon'ble Minister should remember that it is true in all countries and in all ages that political ex-convicts of to-day may be the real leaders of to-morrow. Now, Sir, if the Hon'ble Minister acknowledges, as he must, that persons who are responsible for initiating the policy which may affect the welfare and the vital interests of the entire province, if these persons are immune from a similar ban, there is absolutely no reason why we should make a provision in the law with a view to injuriously affect only those persons who will occupy minor positions in life. That is not certainly playing the game.

With regard to the question of appointments I feel that it is essentially a personal matter; there are so many considerations which should be taken into account before making an appointment, that it is not possible that all those conditions should find a place in the statute book. For instance, any lay onlooker, if he chances to read the clause that we are now discussing, would perhaps come to the conclusion that the Bengal Government does not consider any other qualification to be necessary except that the person must not have been "His Majesty's

guest at any time. Sir, what is the declaration that such a person will have to give when applying for an appointment? It is nothing other than a solemn declaration that he has never been inside a jail—except perhaps as a member of the Visitors' Committee! That certainly is a position which is almost ridiculous. As I was saying, Sir, so far as an appointment is concerned, that is essentially a personal matter and you must leave things to the appointing authority. I do of course admit that the fact that a person has gone to jail should not by itself be made an additional ground or special qualification for giving him a particular appointment. I am quite prepared to assume that, but at the same time the mere fact that a man had been to jail on some occasion should not necessarily be a disqualification, when he is otherwise found suitable for the appointment. Then, Sir, how is the Government going to act in a mattter like this? It is not possible for the Hon'ble Minister who will preside over this department to have personal knowledge of the activities of all these persons. He will therefore have to depend on the reports of the Criminal Intelligence Department. This close relationships with the Criminal Investigation Department will not be a healthy feature of the administration of the Local Self-Government Department. It is difficult to appreciate wherein lies the danger of the existing law. If the person employed works satisfactorily, Government should have no cause for alarm. If, on the other hand, he transgresses any provision of the law, certainly the arms of the law are strong enough to get him back into jail! If he actually does not violate any law but is considered dangerous, from any other point of view, Government has armed itself with special powers of an extensive character, and certainly those provisions can be applied and such persons safely removed to detention camps. Government has these remedies open to it; it is not as if a Corporation employee cannot be got rid of, if he has done something which is against the interests of the country or of Government.

If you look at the detailed provisions of the clause you will find that a deliberate distinction has been made with regard to political offences and other offences. That again discloses the mentality of the framers of this measure. Why has this distinction been made? It is because Government aims not at civic reform but at political vendetta. Surely, if such a provision had been attempted to be placed on the statute book by the Hon'ble Sir William Prentice, we should not have much to say, but the fact that an Indian Minister has been found to be a pliable tool in the hands of reactionary elements, is indeed a matter of deep regret, so far as we are concerned.

Sir, there is one other matter to which I would like to refer. The Reverend Mr. Nag asked me the other day, when he was waxing eloquent over the question of appointment of ex-convicts to the service of the Corporation, whether it was really desirable that such persons

should be given appointments in Corporation schools. But, Sir, what is the position? We find that only about 30 out of 1,200 teachers are persons coming under this category. So far as the number is concerned, surely their influence cannot be exercised in a way which will be prejudicial to the interests of the students concerned?

With regard to the general question, it is very difficult to answer, but while on the subject of ex-convicts being teachers, let us take the illustration of our friend Mr. Jitendralal Bannerjee. He has been a teacher practically all his life, though an ex-convict. Will our European friends object to his appointment? We have another illustration in the late Sir Surendranath Bannerjea, who, as you know, Sir, was for many years a Professor in the Ripon College, and a more enthusiastic teacher one could hardly think of. We can mention many ex-convict professors, who have worked sincerely for the benefit and good of the student community, and are in every way more desirable than others, who may not have gone to jail but are nothing better than cringing sycophants, although loyal to the very core! For another illustration I would refer to Mr. Nag's son—a fine and scholarly youth, who unfortunately suffered imprisonment in connection with the civil disobedience movement. Surely, Sir, if an occasion arises for selecting a teacher in a primary school, I, for one, would welcome him with greater readiness than I would welcome even his distinguished father, the Reverend Mr. Nag.

Maulvi SYED MAJID BAKSH: Sir, speaking under the shadow of a cloud that has darkened the horizon of Bengal of late, I feel diffident to express myself in language properly, which otherwise I could have done in respect of the motion before the House. Arguments have been advanced, grounds have been brought forward which I do not like to tread twice myself. My hon'ble friend, the Secretary for the Local Self-Government Department, just now reminded us that no new arguments have been advanced and no new grounds trod in this connection, but I would make an attempt to break new ground as much as lies in my power. I would simply ask the question, *viz.*, whether the question of an employer employing a man should be left to him or not, because he knows best who should be entrusted with a work and how a particular man will be able to discharge his duties.

Sir, to one point I would like to draw the attention of hon'ble members: Government employs thousands of ministerial officers all over Bengal and questions have been asked in this Council and it is a well-known fact also that there is a good deal of corruption amongst those officers. Now, if an employer thinks that a man who has had the courage to take a non-violent stand with his hands folded on his breast before a *lathi* charge, and has shown manliness and grit and therefore

he should be employed, is there any reason which should compel that man not to employ that person? Sir, there are tests of integrity among which the capacity to suffer is one and that test of capacity to suffer should not be taken away from the hands of the employer. I would ask my friend the Hon'ble Member in charge of the Police Department (who I regret is now absent from his seat) to which of these two following persons he would give a job: to the man who comes to him with scars all over his face—scars received in war—applying for police service, and another person equally or, may be, better qualified but who did not go to war, applies for the same post. To whom would he prefer to give that job? So far as this is concerned——

Khan Bahadur MUHAMMAD ABDUL MOMIN: Certainly to the better qualified man.

Maulvi SYED MAJID BAKSH: My friend is busy correcting his speech and did not listen to me, but interrupts me in the middle of my speech——

In this particular respect I think the Hon'ble Member in charge of the Police Department will choose the man who had been to war and shown courage in the midst of personal danger and has shown much capacity to suffer. As I have already said, the man who is capable of suffering is the man who should be entrusted with positions of responsibility. A booklet has been distributed showing that some of the persons employed by the Corporation have suffered imprisonment. Even if the Corporation has employed men who have once suffered imprisonment, is there any charge in this booklet against any of these men that shows that they were guilty of dishonesty? I have put a straight question to Government and I expect a straight answer. The records do not show that any of these men have been guilty of dishonesty, whatever other fault they may have. I know of a friend of mine who suffered imprisonment but was subsequently employed by the Corporation. He related a story to me. He said: When for the first time I went to collect taxes, the person concerned who had to pay the tax, offered me a rupee and asked me to come again after seven days when he would pay another rupee. I asked him why this rupee? He said that all the bailiffs who came for taxes were given a rupee and went away. I said I was not going to do that. I will give you seven days' time and I want the money after that.

Khan Bahadur Maulvi AZIZUL HAQUE: He should have hauled him up to the police.

Maulvi SYED MAJID BAKSH: Such might be the business of the Khan Bahadur as a Public Prosecutor, and my friend's common sense only goes so far as to say that if a man goes to collect taxes and is offered a bribe he should run to the thana and haul him up before the police.

Sir, there is a gentleman whose name I do not want to disclose who suffered imprisonment not for a month or for a year but for more than two years. I ask the Government "Has the Government anything to regret for giving this gentleman an appointment?" I know him to be the best of gentlemen that I have ever come across, most honest and possessed of qualifications of which a man ought to be proud. I can say unhesitatingly that because of the ordeal through which he had passed that he has got the stamina for undergoing sufferings. Sir, I do not like to take the time of the Council any more, but I do submit that this is a proposition which cannot be maintained with any degree of reasonableness. In this connection I am reminded of an expression of George Elliot that it is just possible that we might differ and live together. You may have your ideal and ideals, and I may have mine. It is just possible for us both to differ and to live together. If you do not do that, you banish civilization, as it now exists, from the reach of human society. It is only a civilized state of society that allows a man to live and to let live, and not persecute. I appeal to the persons concerned who are responsible for these legislations to think for the last time before introducing such a persecuting section in the statute. If a man is found guilty of an illegal act and if he still persists in his course of lawbreaking or commits crimes, the hand of law is strong enough to get hold of him. But if a man has suffered imprisonment once which he might have been impelled to court by some idea which was inculcated into him as most praiseworthy, he should not be debarred from getting any service at all.

With these words, Sir, I support the amendment.

Mr. H. P. V. TOWNEND: I rise to speak now because I am feeling very excited after having at last heard an argument against this clause. Mr. Shanti Shekhareswar Ray has let the cat out of the bag. His view is that Mr. Townend is responsible for this clause; he does not like Mr. Townend and, therefore, the clause should be turned down. That is a very admirable point of view and I sympathise with him. It appears that he has been led in the heat of his argument to ascribe to me certain statements which I did not make. I may have spoken indistinctly as he may have defective hearing. He says that I made various comments about the Corporation; and he does not like those comments. I might say at once that on this point he has to be corrected.

Mr. SHANTI SHEKHARESWAR RAY: On a point of personal explanation. I did not say that I did not like those comments. What I did say was that I liked such open and straightforward comments.

Mr. H. P. V. TOWNEND: I was going to say that I did not make those comments. Mr. Shanti Shekhareswar Ray said that I had represented the Corporation as encouraging revolution and revolutionary movement in this country and that it was an anti-Government body and so on. I was very careful in making my remarks; I said that I had no personal knowledge or experience whatsoever and that I had not examined the evidence: but that it was commonly said that the Corporation was a body of this sort and it was commonly said that the Corporation was encouraging revolution. The members of this House, individually and jointly, appear to have personal knowledge of the truth of this and they have proved it by supporting the Minister in a very handsome manner. There are 84 reasons in favour of this clause and these are good reasons too. I think it is very hard to argue those reasons away. Now it is alleged that the Corporation did not sympathise with revolution. I think that is the point of view of Mr. Syamaprosad Mookherjee. I ask him why it is then that they have named a street Jatindra Das Road and why they passed a resolution in favour of Dinesh Chandra Gupta. I may say that I am meeting the arguments put forward by the gentlemen who were supporting the motion. I am afraid that argument was irrelevant, and I am glad to say my friends approved of it. Mr. Shanti Shekhareswar Ray went on to say that this Bill would affect "a large number of people" as it would debar them from getting employment in the Corporation. This is an admission which is extremely interesting because it confirms the Government when they say that they have their information as to a large number of these people being taken or having been taken on by the Corporation. Mr. Shanti Shekhareswar Ray would not say that in future it would affect a large number of people if a large number of such people had not been appointed "in the past." That they have taken a large number of people in the past seems to be correct, and Mr. Ray's remarks are based on a source of information that we lack. That is extremely interesting. As he sits among the people who are supporting the Corporation in this matter, I presume that he is correct in what he says of them. Another argument that he advanced was "what right have the Government to impose this disqualification?" And some of his friends who supported him also said: "What right have the Government to impose these disqualifications when Government pay or give no grant to the Corporation?" They argue that we have no legal right, unless we pay them something, to ask them to obey the law and not to encourage disobedience to law. That would be purchasing loyalty.

Mr. NARENDRA KUMAR BASU: Is it the Local Self-Government Department logic or the Indian Civil Service logic?

Mr. H. P. V. TOWNEND: It is extremely hard to disprove that logic. The argument put forward is that unless we give a person a grant of money, we cannot take action against him, i.e., that before claiming his loyalty we must make a grant of money. This would apply to ordinary criminals too. Before we could prosecute, we should have given money grants to them! We never do that. We assume that people know what the law is and we prosecute if they disobey the law. There are reasons to suppose that the Corporation have gone out of their way to encourage disobedience of law: if they did not encourage the revolutionary movement, they certainly encouraged illegal acts. I have not said, I do not think anyone in the Government bench has definitely said, that they encourage terrorism directly: but people do not become terrorists directly. They start by disobedience to law and work up to terrorism eventually. When you find people going out with firearms and shooting men, it is not that they have suddenly been seized with the idea of shooting or that suddenly find themselves with pistols in their hands: but they have gradually become used to the idea of shooting, they have gradually worked themselves up until they are prepared to shoot. They start in a comparatively innocent way and gradually go on till they commit murder. Government do not want them to start and Government do not want the Corporation to induce them to start. We do not say that the Corporation deliberately encourage terrorism or murder: but when they encourage illegality, they lead boys on to such things. It is a definite misrepresentation of the whole object of the Bill to pretend that it is intended to prevent some individuals from being employed. The object is to prevent promises being made to them that they will be employed if they undertake illegal acts. This was explained to the House before and even my friends opposite whose ears are stopped by hatred of Government must have understood it. There is no real argument beyond those that I have mentioned which has been brought up against this motion. The rest of the speeches were designed to arouse prejudice against the Hon'ble Minister and to show that his Secretary is prejudiced and vindictive and so on; and I believe it was also insinuated that he is dishonest but that perhaps was unintentional. I oppose this amendment.

Dr. AMULYA RATAN GHOSE: In support of this amendment, Sir, I beg to say a few words. I have heard with surprise what Mr. Townend has just said. Mr. Townend says that he did not say that the Corporation encouraged revolution, but what I heard Mr. Townend to say is that it had been one of their motives to encourage revolution among as many people as possible, and that anything done by the Corporation against Government was considered as

something done in the cause of the country. This was said by Mr. Townend, and it was quoted by the Mayor of the Calcutta Corporation. But now he says that he did not say so.

Mr. H. P. V. TOWNEND: On a point of order, Sir. May I ask you whether the member can insinuate in that way that I am telling a lie by merely reproducing something from the Mayor's speech from memory which is not correct?

Mr. PRESIDENT: I presume, that you do not think that you have been correctly represented.

Mr. H. P. V. TOWNEND: Yes, Sir. When I explained to the House that I did not say this, I do not think any member can say that I am not speaking the truth.

Dr. AMULYA RATAN GHOSE: Sir, I think this printed report is correct, but my point is——

Mr. PRESIDENT: I think, Dr. Ghose should accept Mr. Townend's statement.

Dr. AMULYA RATAN GHOSE: But, Sir, if you will kindly permit me, I shall produce satisfactory notes that Mr. Townend did say so.

Mr. PRESIDENT: But as Mr. Townend denies having said that, you need not dilate on that.

Dr. AMULYA RATAN GHOSE: But, Sir, if Mr. Townend goes back upon his own words, we have nothing further to grumble against.

Reverend B. A. NAG: Sir, is the hon'ble member entitled to say that?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think, Sir, that is certainly misrepresenting what Mr. Townend has said.

Mr. PRESIDENT: As I have already said, the general practice is that when a member of the House makes a statement with regard to

his own remark, that statement is accepted with good grace; but there is no denying the fact that there is no rule to compel another member to admit the correctness of that statement. It is a parliamentary practice to accept a member's statement when made and this practice should be observed, and I recommend that the members of the House should follow that practice.

Dr. AMULYA RATAN GHOSE: Very well, Sir. Now turning to the main point at issue, I want to say that this is a preposterous idea that the Corporation, which has certainly got a good sense of its own dignity, should be deprived of its responsibility to appoint its own employees, and that they should have to seek for Government sanction on every occasion when making an appointment. If that is the viewpoint of the Government, and if such things are thrust upon them, I think no municipality and no local body in Bengal can be called an autonomous body enjoying the fruits of self-government. The Calcutta Corporation is the premier self-governing institution in Bengal and if such restrictions are placed on the Calcutta Corporation, I think the day will soon come when similar institutions in the province will be placed under the burden of such sections and laws. The Hon'ble Minister has said that it is being done in the interest of the rate-payers: but it is common knowledge that the rate-payers expressed unequivocally against this Bill at a meeting held the other day in the Calcutta Town Hall and certainly nobody wanted a clause of this nature. It is, Sir, also a patent fact that if the rate-payers had wanted such clauses and such laws or by-laws to govern the Calcutta Corporation, the accredited representatives of the Corporation in this Council who are here for a very long time, would have been able to bring before this Council an enactment of that nature. But I think no member elected by the people—the rate-payers—has ever thought of a thing like this. The interest of the rate-payers, I think, is the first concern of their elected representatives and if the elected representatives have not thought—and I think very rightly—of such preposterous things, is it to be inferred that they are guilty of dereliction of duty or that they have forgotten the interest of the rate-payers? I do not think that such a charge can be laid at their door. Now, Sir, the allegations that have been made to justify this part of the Bill are unfounded, as I have already said, and I still say. They are based on misrepresentations and incorrect informations. Sir, if this part of the clause is passed, then I think that the autonomous character of the Corporation ought to be given the liberty to choose their own employees and for that reason there should be no provision of the nature which this clause seeks to make. Sir, there are different characters of political offences. A man convicted for hoisting the national flag cannot be considered to be such a criminal as to be debarred from

getting employment under the Corporation for life. The other provisions of this clause also go too much against the principle of self-government and I do not think that these rigours should be imposed upon the premier self-governing institution of Bengal. Therefore, I support the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I very much regret to say, as I had occasion to say some time back, that in spite of the careful guidance from the Chair, we have been conducting the debate in a manner as if to show that the present section is a perpetual bar to the employment of political offenders. It does not at all seek to encroach upon or interfere with the liberty of the Corporation to appoint political sufferers, but only to put a little brake—to exercise a moderate brake—on the Corporation and that brake will be exercised by whom? By the Minister, who in the days to come will be a popular Minister elected by the people and responsible to the Legislature, in order to see whether a man convicted of a heinous crime should be appointed or not. But this section is being debated upon not from that point of view, but from the point of view as if the liberty and freedom of the Corporation are going to be completely taken away by an enactment of this nature. I do admit, as my friend Maulvi Majid Baksh has very eloquently stated, that sufferings are some time to be emulated by the people of the country. But I may remind him of an old saying of a man who is known still by his pound of flesh who cried out "suffering is the badge of our nation." But would that suffering justify his getting that pound of flesh? The situation in the province has become such that it should engage the serious attention of everybody. We should seriously consider whether or not it is time that we should no longer make too much fetish of political sufferings. For some political sufferers I have the highest admiration. But does my friend suggest that every one of them are beyond reproach? There have been occasions when we have seen with our own eyes that people after suffering imprisonment for political offences came out of jail to avail themselves of the earliest opportunity of achieving their personal gain. Sir, I myself have my highest admiration for a great political sufferer. But there are political sufferers and political sufferers. That political sufferer is to be much more abhorred who after coming out of jail does not hesitate to go to Government doors to seek nominations or for the purpose of seeking favour. As I have said, I do not wish to carry this debate to a high pitch, but I say that Bengal has reached a situation when we must decide once for all whether we should be justified in making too much of a fetish of those political prisoners. It is perfectly well known that without political sufferings the country will not be emancipated. But at the same time any support given to the cowardly attempts on the lives of innocent people—attempts made in the name of political emancipation—should be condemned. In this

matter the responsibility of each and everybody is very large and let us not do things which may be taken as giving an incentive to these senseless things. I feel, therefore, that the debate should not be carried on in a manner which would raise such a presumption but only from the point of view as to whether or not the section under discussion is such as will take away the liberty of the Corporation altogether.

Dr. NARESH CHANDRA SEN GUPTA: Mr. Townend has more than once asked for new arguments, and he was so far excited that he altogether forgot the question that we were discussing and trotted out the case of the resolution on Dinesh Gupta. I will furnish him with a new argument and that is an argument which ought to be appreciated—at any rate would have been appreciated—by him but for the position which he now holds. That argument is that it has been conclusively demonstrated, notwithstanding what Mr. Townend says, that Government has no case to say that a considerable number of political offenders have been employed by the Corporation. After days and months of watching, Government in its Publicity Department have brought to the notice of the Local Self-Government Department a certain number of cases of such employment by the Corporation which on close inspection entirely fizzle out to nothing. No political offender has been employed in the Corporation recently and then those who have been employed from before are not going to be affected by this Bill: that much has already been accepted by the Council, and it has also been made out from the catalogues which the Government without the authority of the Local Self-Government Department has published that the cases are ancient ones; at any rate during the last six months the Corporation has not been found guilty of employing any political offender. Now since then a new Corporation has come into existence. I remember the Hon'ble Minister on one occasion told us that before the new election took place he did not propose to take action with regard to the letters which were addressed to the Corporation, because a new election was impending and a new Corporation was coming into existence. That new Corporation has been elected. It is perfectly true that many old members are there, but it is still a new Corporation and anyone looking at the proceedings of the Corporation, particularly in respect of appointments to offices under the Corporation, will see that it is animated by a different spirit and is proceeding on a different method from that followed by the Corporation in the past.

Rai Bahadur Dr. HARIDHAN DUTT: What are the causes?

Dr. NARESH CHANDRA SEN GUPTA: I do not care for the causes. Rai Bahadur Haridhan Dutt may search for the causes with

a microscope, but there stands the fact, and the Government will not allow the Corporation a chance to show that it is animated by a different spirit.

Mr. PRESIDENT: Order, order. I must intervene and I must tell Dr. Sen Gupta that he has been really making a history. The point is this: it is clearly the duty of the Chair to allow the majority to go on with their work and at the same time to see that the minority gets a fair hearing, but just as the Chair will prevent the majority from tyrannising over the minority, it is also the duty of the Chair to prevent the minority from obstructing the majority in the pursuit of their work. I chalked out the lines of debate times without number and I find that those lines are not being pursued.

Dr. NARESH CHANDRA SEN GUPTA: I have not done that: I was dealing with the clause. I take the strongest exception to your statement that I have been obstructive.

Mr. PRESIDENT: Order, order. I have never said that, but if you persist in irrelevance, I shall have the painful duty to ask you to resume your seat.

(Dr. Naresh Chandra Sen Gupta said something which was not audible.)

Mr. NARENDRA KUMAR BASU: After the course that you have thought fit to pursue we on this side of the House do not think that any useful purpose will be served by our taking part in the debate any further.

Mr. PRESIDENT: I do not understand it. It will be my pleasure to allow you as the leader of a particular group to make full statement and if I find that there is any substance in that statement in view of which I should revise my decision, I shall be only too pleased to do that, but I do not want you to make an incomplete statement.

Mr. NARENDRA KUMAR BASU: Sir, the statement that I want to make is this, that in your remarks to Dr. Naresh Chandra Sen Gupta you said that the attitude of a certain party was obstructive.

Mr. PRESIDENT: Did I say that? (Cries of no, no.) I said that it was clearly the duty of the Chair to prevent the majority from tyrannising over the minority by premature closure motions or by other tactics to gag it. You have noticed that in the course of debate I was often asked to put the question and I summarily rejected such requests. By doing so, I have given a fair chance to the minority to build up

their case. I have also often gone out of my way to chalk out definite paths for them to follow. What I said is that the Chair will prevent the majority from tyrannising over the minority and that it is also the duty of the Chair to prevent the minority from obstructing the majority for mere obstruction's sake, in the pursuit of their work. I asked Dr. Sen Gupta not to pursue that line and advance real arguments.

Mr. NARENDRA KUMAR BASU: I thank you, Sir. My submission is that with the idea that the minority may be tempted to pursue obstructive tactics you ruled that in discussing an amendment that a particular clause be omitted there ought not to be any reference to the past history of the Corporation. I submit that so far as the past history of the Corporation is relevant to the debate and especially after the homily that Khan Bahadur Muhammad Azizul Haque was pleased to deliver as to the spirit in which speeches ought to be made and clauses ought to be considered, I take it that in our humble judgment it was necessary for Dr. Sen Gupta to effectively destroy that casuistical argument, and in my submission it was necessary for him to be allowed to speak on the point.

Mr. SHANTI SHEKHARESWAR RAY: May I also make a statement?

Mr. PRESIDENT: It is not necessary, as your leader has already made a statement. I leave the whole matter to his discretion.

Mr. Shanti Shekhareswar Ray's motion was then put and lost.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 4, proposed section 54A(*1*) be omitted.

This section provides that without the previous sanction of the Local Government, in each case, no person shall be appointed as a Municipal Officer or servant if he has been convicted of an offence against the State or has been sentenced to imprisonment for a term of three months or more.

Sir, I want the deletion of the whole section, because I think it to be a preposterous proposition for enforcement on a self-governing body. If a man has been sentenced to imprisonment, say, for three months, the Corporation will have no power to appoint him without previous sanction of Government. Nowadays imprisonments have become very cheap—people are sent to jail for six months or even a year for technical offences on the flimsiest of grounds. Once in prison, he is going to be doomed for ever. He will not be given any chance for reclamation or reformation. If the Corporation feel inclined to give a berth to any of these unfortunate men, they will have to run to the Secretariat and await the pleasure of the Local Government. This is self-government

or autonomy with a vengeance. And pray who constitute the Local Government? It is not the amiable and the Hon'ble Minister alone. There is his Indian Civil Service Secretary and above him the moving spirit of the Government, I mean the Member in charge of the Political Department—the real voice behind the talking machine. I do not think that the Corporation Councillors will stoop so low as to await the pleasure of the Political Department for the appointment of their servants. It was not always possible for them to know the previous antecedents of their servants and there is every likelihood of conflict between the Corporation and Government over such appointments and as a matter of fact the Secretariat will eventually exercise supreme control over appointments under the Corporation.

The circle in which the Hon'ble Minister moves, I cannot call it a vicious circle as they are all honourable men, has so blinded him that he failed to distinguish a difference between civil disobedience and terrorism. I need not go into details to prove it. His speech will speak for itself regarding the murderers and dacoits. With a view to justify the introduction of his Bill, the Hon'ble Minister gave us a list of five teachers who were said to be murderers and dacoits. It is asserted that one of them had never worked as a teacher of the Corporation. The services of one of them was terminated about five years ago and another two and a half years ago and the other one and a quarter years ago. Another man named by him served not under the Corporation but under the Cossimbazar Polytechnic Institute who is said to have received a special pardon and an offer of Government service, but he preferred to accept the appointment which he now holds. This is the long and short story of the murderers and dacoits. Thirty teachers out of 1,200 or 1,300 are said to have been convicted for civil disobedience—perhaps for the offence of picketing foreign cloth shops or liquor shops.

Mr. PRESIDENT: Rai Mahasai, you are reading too fast and I cannot follow you. (Laughter.)

MUNINDRA DEB RAI MAHASAI: People in hundreds and thousands courted imprisonment in those days in the pursuit of an ideal and most of them did not offer any defence. These were exceptional occasions which do not occur every now and then. Civil disobedience has almost ceased to exist. No emergency existed at the present moment to rush through such a drastic measure. The percentage of such employees was too low to take serious notice of. Perhaps it was 1 to 2 *per cent.* Apart from that, it is an undoubted fact that the political idealist of to-day is the statesman of to-morrow. The Hon'ble Minister informed this House the other day that the Education

Officer of the Corporation was the high priest of the civil disobedience movement and that he was sentenced to three months' rigorous imprisonment for taking part in one of the recent demonstrations in Calcutta. I do not know the gentleman personally, but I have heard that besides his high educational attainment, he has done yeoman's service for the furtherance of primary education in the city. The boys and girls who received education in these schools were of tender age and it was impossible for them to imbibe revolutionary ideas when learning their *ka kha ga*. It was simply absurd. I would not have wondered had this order been sponsored by Sir William Prentice but for a popular Minister it was a mystery. Sir Surendranath Banerjea, the father of Indian nationalism, the author of the Calcutta Municipal Act, suffered incarceration, but that did not stand in the way of his occupying the ministerial chair. Similar was the case with Lala Harkissen Lal who suffered for his politics, but that was no bar to his becoming the Minister to the Punjab Government. Then why this unusual anxiety for the suppression of the smaller fries? The Hon'ble Sir Bijoy has got a very weak case to advocate, his advisers have betrayed him lamentably and his position is just like one between the devil and the deep sea, but he has advanced too far to retrace his steps. Still, I hope he will reconsider his position. With these few words I commend my motion to the acceptance of the House.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, in opposing this amendment I would only point out to the mover that if the amendment is accepted, the result will be disastrous. In his amendment, the mover does not touch sub-section (2). In sub-section (4) it is laid down "any authority who knowingly appoints a person in contravention of sub-section (1) shall, if any payment is made, etc." If we accept the amendment, sub-section (1) will vanish. Then what will be the state of affairs? I believe that there will be no consequential change. So the section will stand as it is and the result will be disastrous. If my friend is serious, he should have moved the amendment in some other form. When that had not been done, he should withdraw the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I agree with the member who has just spoken before me. The Rai Mahasai has touched only section 54A(1). If that clause is deleted, the effect will be that the discretion of the Local Government will disappear from the clause, and I do not think that is the intention of the mover. If that is not his intention, I hope he will withdraw the amendment.

Munindra Deb Rai Mahasai's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in proposed section 54A(*1*), in lines 1 and 2, the words "without the previous sanction of the Local Government in each case" be omitted.

Sir, if the principle which the Ministry is setting up is that people who have been convicted should not be appointed, I do not see what virtue there is in referring each individual case to the Local Government. Either appoint him or do not appoint him. I do not think there is any dearth of unemployed men in the country, and if the principle is not to appoint, I do not think it ought to be left to the Local Government to decide in each case. The other difficulty that would arise, unless the words are omitted, would be to make every applicant for the post the target of many subordinate officers of the Police Department. It will lead the way to corruption. I think that if the Corporation were bluntly told that the principle to be followed in making appointments would be not to appoint men who had been convicted, that would serve the intention of the Government better. For these reasons I commend this motion to the acceptance of the House.

Maulvi ABDUS SAMAD: Sir, I have also a similar motion in my name and I support the amendment. From the drafting it appears that in case when a person is convicted, the Local Government may under this clause condone it, and therefore it is put down "with the previous sanction of the Local Government in each case." I think it is quite redundant. It tries to soften the hardship that is put upon the powers of the Corporation by leaving a loophole for the Local Government to exercise the power of condoning. As a matter of fact occasion for such reference would very seldom occur because a self-respecting body like the Calcutta Corporation would never run the risk of their request being rejected by the Local Government. Besides, as there will be hundreds of qualified candidates for each vacancy that would occur there would be no justification for the Corporation to refer the case of a particular man who had been convicted. So, it is better that this portion should be deleted, and it should be made clear that under no circumstances a person who is disqualified under this clause should be eligible for appointment.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 4, in proposed section 54A (*1*), in line 2, after the word "case," the words "if deemed necessary by the Councillors of the Corporation for taking such sanction" be inserted.

My view is very clear. It is that if such sanction be deemed necessary by the Corporation, then it will be taken, otherwise the Corporation should have the liberty to select their own employees and for each and every case sanction should not be sought for from the Government for

employing their employees. It may not be necessary in every case to ask for Government sanction. If there is a bad case or such a case in which sanction is found necessary by the Councillors, it is then and then only that sanction should be asked for. Otherwise the Councillors should be given the liberty to appoint their own employees. With this object in view I have moved the amendment.

Maulvi TAMIZUDDIN KHAN: Sir, I rise to oppose these amendments. I am afraid these amendments have been tabled more in anger than as the result of mature consideration. A little while ago we heard it said on the floor of this House that the rights of the people were being encroached upon and a large number of men were being wrongly excluded from Corporation appointments. These words which my friends want to omit will give a chance to those people to come in. If Government gives its sanction, then persons who have been convicted of political or other offences may be appointed. Now my friends want that this power should be taken away from Government and I for myself do not see the logic of this course of action. If the Government thinks that there is no objection to the appointment of such person, there is no reason why they should be prevented from being appointed.

Sir, my friend Maulvi Abdus Samad said that a self-respecting body like the Calcutta Corporation would never come up to Government with any proposal that an ex-convict be appointed. I do not see why the Corporation should be so very touchy about its self-respect. Even the present law provides that the Corporation has to approach Government for sanction as regards certain appointments. Therefore, I do not see any reason why the Corporation should think it derogatory on its part to come up to Government for sanction for the appointment of certain persons convicted of certain offences. On this ground, I oppose this amendment.

Further, Sir, I am afraid that my friends are probably wrong in thinking that it is the Corporation that will have to approach Government: it is rather quite the other way—it is the candidates who will have to approach Government for sanction; so, also, no question of self-respect, so far as the Corporation is concerned, arises at all. On this ground, too, I oppose the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the last speaker has correctly explained the position. It is not the Corporation which will have to approach Government for the removal of the disqualifications, but the candidates themselves. If they choose to do so there is no reason why they should be placed under this disability perpetually: Government have made it clear times without number and in no uncertain terms that if there is a fit candidate, *i.e.*,

where a person has reformed himself, Government would not object to his appointment. I think Maulvi Tamizuddin Khan has rightly pointed out that these amendments have been moved more in anger than with a real desire to improve the provisions of the Bill, or rather with an eye to the ballot-box.

Mr. NARENDRA KUMAR BASU: Eye to what?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The ballot-box.

Sir, Dr. Amulya Ratan Ghose proposes that discretion should be left to Councillors and Aldermen to ask for this sanction, should they so desire. I think that it is absolutely unnecessary and futile to put in such a provision in the Act inasmuch as Councillors and Aldermen of the Corporation of Calcutta have failed to discharge their duties and that is why the Bill has been introduced. (A VOICE: Question.) Yes. They have.

Mr. Narendra Kumar Basu's motion was then put and lost.

Dr. Amulya Ratan Ghose's motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: Sir, I want your permission to modify my amendment a little. I want to omit the word in line 3, after the word "appointed," the words "or retained" be inserted. I hope, Sir, that you will kindly permit me to do so.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. If you allow Kishori Babu to modify his amendment in the manner he proposes to do, I submit it should come after the amendment of Mr. Shanti Shekhareswar Ray (No. 36) when it can be moved.

Mr. PRESIDENT: I should think so. I am afraid, Kishori Babu, you cannot move your amendment now except in the form in which it stands.

Babu KISHORI MOHAN CHAUDHURI: Then, Sir, I shall not move it at this stage. I will move it later on.

Mr. PRESIDENT: Then you are supporting Mr. Shanti Shekhareswar Ray's amendment.

Babu KISHORI MOHAN CHAUDHURI: Yes, Sir, in a way.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 4, in proposed section 54A (*1*), in line 3, for the words "Municipal officer or servant," the words "teacher in a school" be substituted.

I submit, Sir, that in moving this amendment I have no eye directed towards the ballot-box, which the Hon'ble Minister thinks must have been at the back of my previous amendment. I would only ask my hon'ble friend to remember that none of us is infallible not even the youngest of us, and I would further add that a young head is no criterion for adverse criticisms against amendments brought forward by one section of the House.

Sir, from what we have heard during this present session of legislation—and, perhaps, we shall hear of it later on—we find that it has been dinned into our ears that teachers of the youth—or rather the young boys—ought to be above all kinds of suspicion. If that be so, Sir, and that is the principle which has been so loudly supported by, amongst others, the Reverend B. A. Nag, and Mr. S. M. Bose who is not a perverter of youth but a teacher of youth, I should say, Sir, that there is absolutely no reason given why this clause should include the words "Municipal officer or servant." I know, Sir, full well that by another amendment Government wants to take power of excluding certain particular classes of servants, particular classes of officers from the operation of this clause, but I submit, Sir, that it is not only unnatural but also unfair to do so. Why should the Legislature abdicate this function, which is rightly theirs, in favour of the Executive. I take it that if the principle that no teacher of youths—or rather boys—should be a convicted person, then there is no reason why this Council should adopt the clause as it now stands. All the arguments that I have just heard have been advanced by people now against the employment of convicted persons, and they are based on the theory that teachers of the boys of Calcutta ought to be above Governmental suspicion or any suspicion whatsoever. Well, that principle may now be taken to be acceptable to this House as a whole! That being so, I see no reason why this disqualification should be extended to persons other than teachers in primary schools.

With these few words, Sir, I commend my motion to the acceptance of the House.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, may I, with your permission, put one question to my friend Mr. Basu?

Mr. PRESIDENT: Yes, you have my permission.

Mr. NARENDRA KUMAR BASU: But I am not going to answer.

Rai Bahadur Dr. HARIDHAN DUTT: I want to know whether he proposes that the Education Officer should or should not be included in the category of teachers. Does my friend include the Education Officer in his phrase "teacher in a school," inasmuch as he will be in charge of many teachers etc.? Is it my friend's intention that the teachers should be treated differently from the Education Officer and that the latter should be above all criticism?

Mr. NARENDRA KUMAR BASU: I will furnish a parallel example: the Mayor, so far as the Corporation is concerned, is supreme and is considered to be "above all law."

Rai Bahadur Dr. HARIDHAN DUTT: In that case, Sir, the Education Officer is not to come within the category of teachers in Corporation schools. I submit that it is an anomalous position to which we shall be driven if we were to accept Mr. Basu's amendment together with this elucidation, for a poor man with one conviction will be debarred from appointment while people with as many convictions as possible, like the Education Officer, will be exempt from this diqualification.

On this ground, Sir, I think that Mr. Basu's amendment ought to be opposed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in rising to oppose the amendment of my friend, Mr. Narendra Kumar Basu, I might point out that it would be very harmful to appoint persons as teachers who have been convicted of criminal offences, and, accordingly, we propose to put them under a ban. Further, I think it to be an equally harmful thing to appoint them in any other responsible position in any other department. My friend Mr. Basu has himself pointed out that by this clause Government is going to be vested with powers to exempt certain classes of people so far as certain classes of offences are concerned. This would leave with Government wide discretion as regards the appointment of menial staff who may be guilty of offences of a non-political character. Moreover, as I have clearly explained on several occasions, the object of the Bill is to prevent Corporation appointments being looked upon as rewards for anti-Government activities. So rewards in the shape of appointments as teachers, appointments in the Assessment Department, appointments in the Secretary's Department, etc., may be looked upon as equally good rewards. This is what is sought to be prevented. I oppose the amendment.

Mr. Narendra Kumar Basu's motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 4, in the proposed section 54A(*1*), in lines 3 to 5, the words "has been convicted of an offence against the State or" be omitted, that is to say, any person who has been convicted of any offence and imprisoned for a term—whatever the term may be: three months or six months—or, in other words, political offenders should be put on the same footing as other offenders, and should not be given the "privileged" position of being debarred from appointment or service irrespective of whether they have been imprisoned for a day or for a longer period. Well, Sir, this thing has been discussed threadbare,

and I think it to be eminently reasonable. Besides that, I shall be the last person to make any lengthy speech which cannot possibly carry conviction in the minds of the Local Self-Government Secretary or the Hon'ble Minister in charge of the Bill. Perhaps my arguments may disturb their equanimity—arguments which are also very likely to put them into tremendous heat! When I know as a matter of fact we would have no means or scope to give an effective reply.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I formally oppose this amendment. I do not think that Dr. Sen Gupta has made out any case in support of it.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in proposed section 54A (*1*), in lines 3 and 4, after the words "has been," the words "after the commencement of this Act," be inserted.

I might mention, Sir, that my amendment tries to bring this clause into line with the whole scheme of the Bill as it has emerged from the Select Committee. If the other retrospective clauses are taken out, I see no reason why young men and boys, who were convicted before the date of the commencement of this Act, and who had no knowledge of the further disqualification they were going to acquire, should be debarred from service. I submit that this amendment is quite in line with similar other amendments made by the Select Committee, and I hope the Hon'ble Minister will have no objection to accept it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid I cannot accept this amendment, because I see no reason why this discrimination should be made. Government cannot assume that persons who were convicted before this Act had come into force had already reformed. Persons who are already in the Corporation service have been allowed to continue there, but with regard to future entrants I do not see why there should be any discrimination. But if any person has really reformed, his case can be safely dealt with under the powers reserved to the Local Government. I oppose this amendment.

The motion being put a division was taken with the following result:—

AYES.

Ali, Maulvi Nasim.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Poddar, Seth Hanuman Prosad.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemeal.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. C. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. G. B.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. N. G. A.
Ensufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. B.
Ferguson, Mr. R. H.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildwar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. B.
Hussain, Nawab Musharruf, Khan Bahadur.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Lockhart, Mr. A. R. E.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend R. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholls, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Raikat, Mr. Prosanna Dev.
Rai Mahasai, Munindra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Hariharan.
Roy, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rohini Mohan.
Sen, Rai Sahib Akshay Kumar.
Sen, Mr. B. R.
Sen, Rai Bahadur Biris Chandra.
Shah, Maulvi Abdul Hamid.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 15 and Noes 77, the motion was lost.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 4, in proposed section 54A (1), in lines 4 to 6, for the words "against the State or has been sentenced to imprisonment for a term of three months or more" the words "involving violence" be substituted.

The object of my amendment is not to penalise those who have got nothing to do with violence. Terrorism is to be condemned by all means, but people should not be made to suffer for their political ideals. The civil disobedience movement is a temporary phase in the political life of the nation and serious notice should not be taken of the actions done under sudden impulse on temporary excitement. The movement has almost died out, and there is absolutely no necessity for penalising those who had taken part in it. Imprisonment for a term of three months is inflicted for trivial offences and that should not stand in the

way of marring the future prospects of any person. Nowadays, offence against the State can mean anything. The movement for political emancipation or for the change in the system of Government, though legitimate and constitutional, can be interpreted as an offence against the State. When there is political turmoil and the atmosphere is surcharged with suspicion and distrust all sorts of interpretations, though sometimes absurd, are accepted for the sake of conviction.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 4, in proposed section 54A(*1*), in line 4, for the words "State or," the words "State involving violence and" be substituted.

Sir, my object, as will be clear from a reference to the section and the proposed amendment, is to make it clear that it is not in the cases of all persons convicted of an offence against the State that the disqualification should extend, nor should it extend to cases of people who have been convicted not of offences against the State but have been convicted of any offence whatsoever under any law and sentenced to three months' imprisonment or more. If the Government is honest and if the Government has not been giving the House only a garbled account of its intention so far as this Bill is concerned, even though it appears that it has been creeping from misrepresentation to misrepresentation, if it is honestly of opinion that political offenders ought not to be in the service of the Corporation, I take it, Sir, that what it means is that it is not its object to exclude those people who have for example been convicted of, as I have said on previous occasions, one of the offences under the sections of the Indian Penal Code in Chapter 7, for example, the offences of wearing the garb of a soldier. I submit that it is only common sense that in order to disqualify people from these public appointments the utmost that one can do is to see that people who have been convicted of offences against the State involving violence and even of offences of a serious nature, that is to say not so light as to merit from the courts a sentence of three months or less are not appointed. I should say that I am not satisfied with the further provision in the Bill which I am afraid will again be flaunted before me that the Executive Government will have the power to exclude any offence or classes of offence and so forth. I submit, Sir, that it goes against the grain of any public man to allow the Executive to usurp the functions of the Legislature, and I think that the House ought to realise what it is legislating about. It is no good saying that we shall leave everything to the sweet will of the Executive; if that is to be so, there is hardly any use in having a Bill of this description: a Bill of two or three lines, so far as the first part of it is concerned, that all appointments under the Corporation shall be subject to the approval and sanction of the Local Government, would be quite enough. I submit the House will not be well advised to abdicate its functions to the Executive. Moreover, it is patently clear that the

liberty which the Corporation now enjoys under the present Act, has not been abused except in a very few cases. Even in the case of the principal officers of the Corporation about whom there is a provision in the present Municipal Act, not all of them are subject to the sanction of Government. We have not heard a word in this Council from the Government members except in praise of the Chief Accountant. That appointment is not subject to the sanction of the Local Government. Moreover, I may remind the House that we have not yet heard that in the case of any of the statutory appointments which are now subject to the sanction of the Local Government, the Local Government has had to reject the recommendation of the Calcutta Corporation. Therefore, Sir, it cannot possibly be said that the Corporation has abused its power in this respect, and I think it is going too far to say that any person who has been convicted of a so-called offence against the State should be debarred for ever from getting employment under the Corporation, because as you know, Sir, for any of the offences in Chapters 6 and 7 a man may have been sentenced to admonition of the Court or to imprisonment till the rising of the Court, or bound down, and it is absurd that such men should be debarred at the sweet will of Government. And the Bill says that in all cases of three months' imprisonment, simple or rigorous, this disqualification should attach. I submit that this is neither logic nor fairness. I, therefore, commend my motion to the acceptance of the House.

Maulvi TAMIZUDDIN KHAN: Sir, I find myself almost in agreement with this amendment. The amendment seeks to alter the proposed section 54A in certain respects. If there is no such amendment, then political offenders or offenders against the State will not be exempted from the operation of this clause like other offenders. Even the offence of murder will be exempt from this section after the lapse of five years, but if he is convicted of an offence against the State, he will not be exempt even after five years. There seems to be anomaly in this section in the treatment proposed to be accorded to different classes of offenders. The amendment suggested is a very humble one. This amendment only says that if a person is convicted of an offence against the State and if that offence does not involve violence, in that case after five years that person may be exempted from the operation of this section. If this amendment is accepted by the Hon'ble Minister, I do not think there will be any danger, because if such an offence does not involve violence, then that offence is tantamount to merely an expression of opinion or some such thing. Therefore, it will not, perhaps, be harmful if this amendment is accepted. I should, however, like to put in a short-notice amendment if you, Sir, agree to it and consider it necessary. The amendment asks that after the words "State or" the words "involving violence" may be inserted, but there may be offences which may

not involve violence but yet may involve incitement to violence. It may, however, be said that an offence involving violence includes the offence of incitement to violence. Then of course there is no difficulty and no further amendment is necessary. It seems, however, doubtful whether an offence involving violence also includes the offence of incitement to violence, and so I think the amendment may be so changed as to read "involving violence or incitement to violence."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am afraid I cannot accept the amendment.

Mr. PRESIDENT: As altered by Maulvi Tamizuddin Khan?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. Its effect will be to leave out persons convicted of civil disobedience, persons convicted of other serious offences against the State, for instance, sedition. What about Jnananjan Neogi? That person is certainly responsible for many acts of violence, and though he was convicted technically for sedition——

Mr. SHANTI SHEKHARESWAR RAY: Has the Hon'ble Minister any evidence to support his statement that he has been responsible for many acts of violence? Is he in order in attacking a person behind his back?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I was only illustrating my point.

Mr. PRESIDENT: I think the Hon'ble Minister might leave out names.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Very well, Sir. Government want to cover these cases, and that is why I cannot accept the amendment. It will defeat its own object, and therefore I oppose it.

Munindra Deb Rai Mahasai's motion was then put and lost.

Mr. Narendra Kumar Basu's motion being put, a division was taken with the following result.

AYES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Khan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Armstrong, Mr. W. L.
Ashworth, Mr. S. G.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Allmazzamaa.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. S. R.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. H. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. N.
Ghaznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. S. G.
Hossain, Nawab Musharruf, Khan Bahadur.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Mohammad Abdul.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Qasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Surat Kumar.
Roy, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sahana, Babu datya Kinkar.
Sarker, Rai Sahib, Rohati Mohan.
Sen, Mr. S. R.
Sen, Rai Bahadur Siris Chandra.
Stevan, Mr. J. W. R.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 14, and the Noes 59, the motion was lost.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 4, in proposed section 54A(*1*), in lines 4 to 6, the words "or has been sentenced to imprisonment for a term of three months or more" be omitted.

Sir, up till now the Hon'ble Minister in charge of the Bill has been unable to justify in any way such a drastic proposal. To my mind a proposal of this nature has neither any moral nor any political justification behind it. For example, take the case of a person who has been convicted and sentenced to a term of imprisonment extending to, say, six months for rashly driving his car. What justification can there be to deprive such a person of the right of applying for an appointment under the Corporation of Calcutta, say in the Education Department or in the Sanitary Department? He may be considered to be a person unfit for driving motor lorries on account of his previous conviction, but I do not think why he should be debarred from becoming a teacher if he has the proper educational qualifications. There may be similar cases of this nature. So, on the moral basis you have absolutely no justification to deprive one and all who come under this sub-section from applying for Corporation appointments simply because they have been sentenced to a term of six months' imprisonment. The clause is also vague:

he may have been convicted, but the conviction may not have been upheld on appeal. You do not provide for any such contingency. Leaving aside the moral basis, let us turn to the political considerations. I could have understood the attitude of Government if Government had brought forward such a measure ten years ago when the non-co-operation movement was first started or later on when the civil disobedience movement was started about two or three years ago. Had they done so that would have been a preventive measure, that would have perhaps a salutary effect. From the Government point of view that would have discouraged the people, but they did not do anything of the kind for several years and now when the movement is on the wane, they spring this proposal upon the country and they seem to suggest that they have done a great thing. Why did they not bring forward such a measure ten years ago? Why did they not bring in such a proposal even three, two, or one year ago when the civil disobedience movement was at its height? I could have appreciated it if not on the merits of the Government action, but at least on the courage to fight the movement. When the movement has practically died out, they make a great show of strength and bring in this measure. Some of the servants of Government spoke very strongly against the Corporation. Now, suppose the House accepts the proposal, what is going to happen? Well, you are simply debarring certain people from applying for appointments. It cannot be conducive to a better administration, because you leave these objectionable persons, whom the Government call objectionable, in the service still. By a queer process of reasoning Mr. Townend seemed to assume that there are a large number of these objectionable persons in the Corporation and what was his argument? He said that because I objected to the inclusion of such a provision, there must be a large number of such people in the Corporation with such tendency. I leave it to the House to judge the logic of such a reasoning. I am sorry to refer to the argument of Mr. Townend. I could not reply to it because I was at a disadvantage having had to speak before him. I am again sorry if I have hurt him in any way by my remarks, but it was because of the provocation given me at the outset. I know a casual or an unguarded remark from him may affect the prospects of these people.

Mr. PRESIDENT: Are you about to finish? It is time for us to adjourn.

Mr. SHANTI SHEKHARESWAR RAY: I would take still about fifteen minutes to finish.

Mr. PRESIDENT: But you have only seven minutes to run. I can give you that time to finish your speech.

Mr. SHANTI SHEKHARESWAR RAY: But I am prepared to continue my speech to-morrow if the members of the House are in a hurry to go home.

Mr. PRESIDENT: You had better finish it to-night.

Mr. SHANTI SHEKHARESWAR RAY: Now, Sir, to return to my subject: as to why I want this clause to be omitted. It is simply because I do not want Government to give cause for further friction with the public, or at least a large section of the public. If such an invidious distinction is introduced, a legislation like this will continue to rankle in the midst of the people for a long time. So far as political considerations are concerned, the time has come for the Government to forgive and forget and to take a generous view of the situation; when the higher authorities have taken that view in the release of Mahatma Gandhi on the question of his fast, I think the Local Government also should follow in the footsteps of the sister Government of Bombay and also of the Government of India. Sir, a thing may be technically right, but with a view to bring about a better atmosphere in the country such distinctions, such pin-pricks, should be avoided as far as possible. It is time that those who have been involved in the civil disobedience movement should be so treated as to make them believe that Government do not entertain any vindictive spirit against them. As a matter of fact, when the Gandhi-Irwin Pact was signed, the Government in India released a large number of men on political consideration. Government could certainly have continued keeping them in jail, but chose to give them a chance to settle down; if that was possible then, I think it is equally possible now for the same policy to be followed. If you have forgiven once, why should you rake up all these things in respect of these ordinary people? There are many people, Sir, who were caught up during the earlier period of the civil disobedience movement, but many of them afterwards did not join the movement; for instance, my predecessor Babu Ramesh Chandra Bagchi was a member of this Legislature, representing the constituency I now represent. In the course of the first period of the civil disobedience movement he was convicted and sentenced to imprisonment. Later on, Sir, when this movement was started again, he did not join it. There are several cases like this. When there was a general tendency to go to jail, these men caught the infection, but the Council should not do anything which would remind them that in respect of certain things they were untouchables! If you introduce the clause in the case of the Calcutta Corporation, you will have to do so also in the case of District Boards, Municipalities, the Calcutta Improvement Trust, the Universities, and such other public bodies: you do not know where you are going to stop. Because, if you are consistent you will have to do that in respect of all local bodies.

So, a large number of people will be involved, and it is not in the interest of good government or of the peace of the country that this mentality should continue.

With these words, Sir, I support the motion.

Mr. H. P. V. TOWNEND: May I reply this evening so that the House may get this amendment finished to-day? I should first of all ask leave to say that I bear no grudge against Mr. Shanti Shekhareswar Ray: Everything that he has said about me in debate has been perfectly fair, and I have no resentment against him. His argument is that it will create bad blood if such a provision as proposed in the clause under discussion is introduced. But the real point is that if Government have adequate powers to deal with this matter, there will probably be no occasion for using them. They will, therefore, not arouse bad feeling. The argument advanced by Mr. Ray is for all practical purposes an argument in support of the clause as it stands. He urges that the Government of India have used their executive powers with discretion and in a conciliatory way: I can assure him that the Government of Bengal can be trusted to do the same if they are given the executive powers of exemption here proposed. Mr. Ray is protesting that I misrepresent him: but, really, I think that I do not. He has approved the action of the Government of India in releasing prisoners and he has praised Lord Irwin for concluding a pact with Mr. Gandhi. These were executive actions and Mr. Ray has approved them. Why cannot he trust the Bengal Government with power of exemption in a similar matter? I do not think there will be any real difficulty in working the clause, but I think that the work will go on more smoothly if this clause is retained as it stands.

Mr. NARENDRA KUMAR BASU: I do not think it is fair to this House for the Government Member to say that in all matters connected with this Bill we should trust the Local Government. Sir, it is not a question of trusting or not trusting the Local Government at all. It is a question of having some legislative measure passed by this House.

Mr. PRESIDENT: I think, Mr. Basu, you will not mind continuing your speech to-morrow. I better adjourn the Council now.

Mr. NARENDRA KUMAR BASU: Very well, Sir, I will resume my speech to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m., on Tuesday, the 5th September, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 5th September, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 109 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Representation of minorities on local bodies.

*159. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) what arrangements are the Government going to make and when, to hold elections to the local bodies, *e.g.*, local boards and the district boards, to give practical effect to the provisions for the representation of minority communities, introduced in the recent amendment of the Local Self-Government Act; and

(*ii*) whether practical effect has already been given or are about to be given to the similar provision of the Bengal Municipal Act of 1932 in all the municipalities of Bengal?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, what is the reason for delay in giving effect to the provisions of the Local Self-Government (Amendment) Act?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) and (*b*) Rules are now being drafted. These can take effect only when elections become due in the ordinary course.

(*ii*) Yes.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Minister be pleased to say when the drafting of the rules will be finished?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult for me to say when it will be finished as with all these legislations the department is overworked.

Babu HEM CHANDRA ROY CHOUDHURI: What does the Hon'ble Minister intend to do regarding elections of those bodies the elections of which have become due in the ordinary course?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the hon'ble member means the elections which will become due before the rules are ready, then I may say that the matter is under consideration.

Howrah Ghat.

*160. **Dr. AMULYA RATAN GHOSE:** (*a*) Is the Hon'ble Member in charge of the Marine Department aware—

(*i*) that at the west end and on the northern side below the Howrah Bridge there was a bathing *ghat* which was used exclusively by women;

(*ii*) that now the same has been closed owing to the construction of a shed overhead in which exists a restaurant;

(*iii*) that this *ghat* used to be resorted to by a very large section of the women bathers not only of Bengal but of the whole of India at the time of solar and lunar eclipses and other religious festivals; and

(*iv*) that at present women bathers have to take their dips in the sacred water of the Hooghly along with males in the southern *ghat*?

(*b*) Is the Hon'ble Member considering the desirability of satisfying himself of the inconvenience of the women bathers by a personal inspection?

(*c*) Are the Government considering the desirability of taking immediate steps for the removal of the shed and the restaurant and of restoring the *ghat* for the exclusive use of the women bathers as before?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*), (*ii*) and (*iii*) The member is

apparently referring to the old "Howrah Ghat" which was closed many years ago, some time before 1880. So far as can be ascertained, this *ghat* was used by women bathers only.

(*c*) Yes, at the Chandmari *ghat*.

(*b*) No. Enquiries have been made and there appears to be no special inconvenience.

(*c*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Is the *ghat* the property of the Port Commissioners?

The Hon'ble Mr. J. A. WOODHEAD: The old Howrah *ghat*? I should like to have notice.

Rai Bahadur KESHAB CHANDRA BANERJI: In view of the alleged inconvenience of women bathers, will the Hon'ble Member bring this matter to the notice of the Port Commissioners?

The Hon'ble Mr. J. A. WOODHEAD: I would refer the hon'ble member to the answer to part (*f*) of the question. The *ghat* was abolished before I was born.

Central Munsif's Court at Comilla.

*161. **Babu KHETTER MOHAN RAY:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the High Court have received any representations from the Tippera District Bar Association and other persons complaining of the hardships and inconvenience to the litigant public, lawyers and their clerks caused by the establishment of the central Munsif's Court at Comilla and praying for its abolition?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the High Court have considered the said representations?

(*c*) Do the Government intend abolishing the central court at Comilla?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) Yes.

(*b*) The matter is now under consideration.

(*c*) No decision has yet been arrived at.

State prisoner Jyotish Chandra Ghosh.

*162. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) whether it is a fact that the report about the health of Professor Jyotish Chandra Ghosh detained under Regulation III of 1818 is bad;

(*ii*) whether it is a fact that he is attacked with paralysis and bedridden; and

(*iii*) whether it is a fact that he has been suffering from a long time from continued ill-health?

(*b*) Are the Government considering the desirability of—

(*i*) making an urgent enquiry about the health of the said détenu; and

(*ii*) move proper authorities to allow him to go to a better place for the recuperation of his health?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) to (*iii*) The Local Government have no information about the State prisoner's health.

(*b*) (*i*) and (*ii*) The matter is entirely one for the Government of India to consider and decide.

Disturbance in Suri Jail.

*163. **Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that Srijut Sudhansu Majumdar of Nalchira and Srijut Rabi Roy of Patuakhali, détenus in the Suri Jail, were assaulted by warders on the 12th July last?

(*b*) If the answer to (*a*) is in the affirmative, what action, if any, have the Government taken in the matter?

The Hon'ble Sir WILLIAM PRENTICE: The hon'ble member is referred to the reply given to starred question No. 133 on the 31st August, 1933.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the two detenus who were assaulted by the warders were asked to make any statement in connection with the incident?

The Hon'ble Sir WILLIAM PRENTICE: I cannot say definitely. An inquiry was held, and I believe their statements were taken during the inquiry.

Mr. SHANTI SHEKHARESWAR RAY: Has the Hon'ble Member made any attempt to get the version of these two detenus?

The Hon'ble Sir WILLIAM PRENTICE: The inquiry was dealt with by the Hon'ble Member in charge of the Jail Department. I have no intention of interfering with his department.

Mr. SHANTI SHEKHARESWAR RAY: Do the Government propose to publish the statement or the version of the detenus in connection with that incident?

The Hon'ble Sir WILLIAM PRENTICE: In the answer to the starred question referred to, so far as I recollect, extracts from the detenus' statements were given. That contained the gist of the prisoners' statement.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Jagannath Intermediate College building and hostels.

64. Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Will the Hon'ble Minister in charge of the Public Works Department be pleased to state whether the buildings, lands, etc., attached to the Jagannath Intermediate College, Dacca, and its hostels are Government properties?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what amounts have been spent every year for the maintenance and repairs of the said buildings since 1926, and what amount has been expended on the construction of the latrines of the said college and its hostels?

MINISTER in charge of PUBLIC WORKS DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) Yes.

(*b*) The following amounts were spent on maintenance and repairs during the years noted below:—

	Rs.
1926-27	No expenditure.
1927-28	2,794
1928-29	2,470
1929-30	12,020
1930-31	2,572
1931-32	3,447
1932-33	2,185

Rupees 14,867 and Rs. 375 were spent on construction of latrines attached to the college and hostels during 1927-28 and 1928-29, respectively.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Calcutta Municipal (Amendment) Bill.

Clause 4.

Mr. Narendra Kumar Basu who was in possession of the House the previous day resumed his speech in regard to Mr. Shanti Shekhareswar Ray's motion.

Mr. NARENDRA KUMAR BASU: In supporting this amendment, I must confess it is rather difficult to avoid repetition of the arguments. As you are aware and as the House is aware, the amendments which we have been previously discussing as well as the amendment for the recommittal of the Bill were partly based on the opposition that we had to the inclusion of offences other than offences against the State in the list of disqualifications for municipal employment. But, Sir, I am extremely sorry that one side of the House is practically empty to-day, because I would have liked to make a few observations with regard to the answer which has been frequently trotted out in this House regarding the powers of the Executive Government. I know, Sir, that there has been manifested in this House the wish or rather the desire that there should be as little interference with the Executive Government as possible. I was going to draw the attention of the British members of the House, both official and non-official, to a certain other passage from a book by the Lord Chief Justice of England to which I drew attention the other day. I am glad to find that the mention of the name of the Lord Chief Justice of England is drawing forth audible smiles from the Treasury Bench. This is the sort of respect the Treasury Bench pays to the Lord Chief Justice of England. But, I am not surprised because as a matter of fact, as I have said over and over again, a Britisher in his home country and a Britisher in this country are two eminently distinct propositions but I was going to draw the attention of those members of the European community in this House who have not yet lost the Englishman's vaunted respect for the rule of law. I am not speaking to those who either by long exercise of irresponsible power or by a sense of self-interest or by both have become—I hope it is a parliamentary expression—"crusty old fogies," but, Sir, I am speaking to those who have not yet lost all sense of decency, all sense of justice and fair play when it is a question between the Britisher and the Indian; and I wish only to draw the

attention of these members to what Lord Birkenhead has called a new creed for bureaucrats, and he expressed that creed in a few short and cryptic sentences, some of which I will place before the House:—

"1. The business of the Executive is to govern.

2. The only persons fit to govern are experts.

3. The experts are the permanent officials.

4. Two main obstacles hamper the beneficent work of the expert. One is the Sovereignty of Parliament and the other is the Rule of Law.

5. The expert must make use of the first in order to frustrate the second.

6. To this end let him, under parliamentary forms, clothe himself with despotic power, and then because the forms *are* parliamentary, defy the Law Courts."

Mr. PRESIDENT: Surely, you are not going to read out the whole book! (Laughter.)

Mr. NARENDRA KUMAR BASU: No, Sir. This, says Lord Birkenhead, forms part of the creed of the bureaucrat who wants to turn a form of law into his own purpose and who under the forms of law wants to make his own will supreme in the land. It is for these reasons, Sir, that I submit that it is no use relying upon the rules and orders made by the Local Government. If there are to be rules—the rules are to be made by this House in order that they may have statutory force. It is no use saying that the Local Government will make the rules so that minor offences and minor offenders will not be touched and that the universality of the clause as it stands in 54 (*a*) (*i*) will not in practice be enforced by the Executive Government. I submit that this goes against the whole spirit of law. It goes against the whole spirit of the division of Legislative and Executive functions, and I would submit it is wrong in principle, and I hope the House will see its way to accept the amendment moved by Mr. Shanti Shekhareswar Ray.

Maulvi TAMIZUDDIN KHAN: This amendment seems to be a totally misconceived one. Mr. Ray who moved this amendment did not say a single word as far as I could understand which was relevant to the point at issue; to-day my hon'ble friend, Mr. Narendra Kumar Basu, has sought to offer an obstruse explanation of the question at issue which I for myself have not been able to understand. The section seeks to put a ban on ex-convicts and these ex-convicts are divided into two classes—political ex-convicts, *i.e.*, offenders against the State, and other ex-convicts. So far as the offenders against the State are concerned, there is a rigorous ban put on them in respect of municipal

appointment and no such offenders can be appointed without the previous sanction of Government. But so far as other offenders are concerned, it is laid down that they cannot be appointed if they are sentenced with imprisonment for a certain term. So, if the amendment of my friend, Mr. Ray, is accepted, the position will be this: The ban will stand against the offenders against the State only, but as regards other offenders, namely, forgers, murderers, dacoits, cheats, thieves and like other serious offences, the ban will be removed. That is to say, there will be no bar to the appointment of these persons who have been convicted of serious offences of the latter kind. I am sure that certainly it cannot be the intention of Mr. Ray. With these few words, I oppose the amendment.

Rai Bahadur JOGESH CHANDRA SEN: First part of clause 54 (*a*) (*l*) consists of 6 lines of which 3½ lines have been disposed of, and I shall start with the second part, *viz.*, next 2½ lines. My hon'ble friend, Mr. Ray, has moved a resolution similar to mine. Sir, my purpose will be served if I support it. But my grounds are different. I do not think I would gain my points if I start by accusing and mercilessly criticising the Hon'ble Minister with all the vigorous language of vituperation that I can command. I know as much as everybody does that the Hon'ble Minister is a thorough gentleman who is loved by all for his uniform courtesy. I know the Hon'ble Minister loves this city as much as we do, and he is as good a rate-payer as we are. I would pause and consider whether that will unbalance the gallant lieutenant and force him to yield. We have noticed how calmly he has been fighting his battle for the last three days and gaining his points. Sir, the Hon'ble Minister is anxious to see the Corporation of Calcutta free from all political influences. It would not be unreasonable of me to say that an administrative body should not bring in politics in its day-to-day administration and especially the rank and file should have nothing to do with politics. It is no good at this stage to have an academic discussion any longer as to whether there should be any ban against any offender. Arguments may be conclusive, but supporters would not be forthcoming. If the Hon'ble Minister means political offences, let him stick to them, and let him not waste his energy and valuable time over other matters. Let him not take the role of a social reformer as well. I mean that there should not be any ban against any offender who is not convicted of any offence against the State. The Corporation of Calcutta is a highly responsible administrative body, and the question of appointing other offenders should be left entirely in their hands. Where is the independence and initiative of an administrative body like the Calcutta Corporation if the Government keep all these minor powers in their hands? It has been said, and said very often, that the Government do not want to

interfere with the internal administration of any local body. So this clause must be clear and definite. It must not be like a fishing net to catch both *kucho chingri* and *katla*, *i.e.*, both small frys and big fishes.

My next point is that there should not be a universal discontent or disaffection over this Act. It is not sound policy to mix up the question of terrorists with the ordinary offenders, and thereby increase the number of discontented people and make them more discontented which can easily be avoided. On the other hand, Sir, these criminals should be given a fair chance to reclaim themselves, and they deserve our pity and sympathy. If these people are hunted like pariahs, they would, I am afraid, go to swell the number of terrorists whom we all want to pacify as far as possible. It is no good bringing a hornet's nest about one's ears for nothing. I, therefore, appeal to the Hon'ble Minister to consider these points very seriously and see his way to accept this amendment. I would request him to agree to delete these lines regarding other offences, that is, the last two and a half lines, because Government are not in a position or cannot define all the offences clearly and definitely. That is no reason for having a clause which will drag in many others. This clause will lose all its force if no distinction is maintained as in the case of *muri* and *michri*. If the Hon'ble Minister had kept an open mind, and I believe he has, I hope he will have no difficulty or hesitation in accepting this constructive suggestion of mine. Mine is an appeal, Sir, and not a threat. This is not a threat in any shape or in any form, and this has been suggested in the interests of good administration which the Government are so anxious to maintain. Times are very hard, and we have to do away with the vague theories and act as practical men of the world and not tarnish the Act with vagueness and impossibilities. Removal of these vague lines will cost nothing; it will pay in the long run. I believe I have been able to convince my colleagues in this House, and I hope the Hon'ble Minister will be pleased to consider this question very seriously and be pleased to accept this amendment. With these words, I support the amendment.

Mr. S. M. BOSE: On a point of order, Sir. I think amendments Nos. 33-44 refer more or less to the same matter as regards the term of imprisonment and can be taken together.

Mr. PRESIDENT: Order, order. That is not a point of order.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, the object of this Bill is quite plain and simple. The Hon'ble Minister in bringing forward this Bill wants to rid the Calcutta Corporation of political influences. Sir, so far as the words "if he has been convicted of any offence against the State" are concerned, they are quite in consonance with the object with which this Bill has been introduced. There is,

however, one point which it is very difficult to understand, and I hope the Hon'ble Minister will enlighten the House on it. It is not understood why ordinary offenders should be brought within the purview of this clause. There is a difference between one kind of offence and another. There are offences of a serious nature, and there are also offences which are not serious. For instance, if an individual is charged and convicted under section 147 of the Indian Penal Code for rioting, he will be debarred from getting an employment in the Calcutta Corporation. It might be that he was convicted and sentenced to a term of imprisonment for three months over a dispute which arose in connection with the possession of a piece of land in which he was interested and which he claimed as his own. In such a case it is not an offence of a very serious nature. There may be offences for which a person might be convicted in the exercise of his right of private defence. Such cases do not involve moral turpitude. I request the Hon'ble Minister to reply to these points as to whether it would be reasonable to include such persons, the problem of taking back into the fold the erring creatures, of getting appointments under the Corporation of Calcutta. This is a point which, I think, should be made clear.

With these words, I support the amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to give my unqualified support to this amendment of Mr. Shanti Shekhareswar Ray. While the amendment wants to delete these words, the main object of the Bill is not at all interfered with. We have been told of the principle on which the Bill rests, and as a matter of fact I may say that so far as the Bill seeks to exclude persons who have been guilty of offences against the State, there is very great support to the Government. A large section of the people are of opinion that so far as serious offences against the State are concerned, like the waging of war, etc., Government have a right to interfere, and there should be a clear provision for bodies like the Corporation that they should not take them into their services. Again, that has not been made absolute, but they can take them with the sanction of the Government. I believe that this sanction on the part of the Government which is laid down as a precondition for taking into the service an offender against the State, may work healthily, provided the Government will see eye to eye with the Corporation in these cases whereby by providing employment to such persons the problem of taking back into the fold the erring creatures of society may be satisfactorily solved. The more rigorous you are in these matters, the more you make the things bitter and worse. As a matter of fact, public opinion should be brought more and more on the side of law and order, and Government ought to be more and more charitable, and they ought to show also by their conduct that they do not mean to go further than the necessity of the case requires them to go. Now, Sir, by an addition of these sentences to clause 54A(2), suspicion is

naturally aroused in the minds of otherwise loyal people, people who are otherwise prepared to support the Government. Suspicion has been aroused in the minds of these people that what you propose to do is a mere cloak to paralyse the Corporation and its activities not in one direction but in all directions, so as to reduce them to the position of a mere supplicant before the Government even in small matters. Otherwise, judging by the principle on which the Bill has been assumed to have been based, one fails to understand how these sentences came within the scope of the clause. There is no affinity between this part of the clause and the previous part. One hon'ble member of the House said just now that if this clause was not there, thieves, robbers and other persons guilty of offences similar to thefts and robberies might be taken in by the Corporation. This is really a very surprising proposition. If the Corporation cannot be trusted to take in men in their services who are above committing thefts and similar other offences, I think it would be better to make the Corporation cease to exist altogether. The result of the inclusion of this clause would be, as has been just pointed out by the previous speaker, that even in matters where the applicant was punished for an offence relating to his own property, for instance, if a man exceeds his right of private defence—with imprisonment for three months or more, even though in such cases no action is contemplated to be taken by the Government—he will not be able to secure a job, however qualified otherwise he may be, and thereby make the question of unemployment still more acute. Sir, there may be another reason why this part was introduced in this clause, namely, to shut out civil disobedience prisoners from employment under the Corporation. I submit, Sir, the case of civil disobedience prisoners also deserves a great deal of consideration. They have not been guilty of offences involving moral turpitude like the case of those who were sent to jail for dacoities and terrorist activities. In this case, Sir, the Government are confusing the two classes of offenders—civil disobedience offenders and offenders against the State for offences like those of waging a war and all that. I believe a good deal of the present deplorable state of things is due to the fact that the authorities have not been able to make a distinction between one set of prisoners and another, between prisoners who have been for the time being led away by the sentiments of the hour to commit things like picketing and joining a procession or demonstration all of which involve no moral turpitude, and persons who have been convicted of serious offences against the State and society. If these classes of persons are mixed up and confused with persons who are guilty of serious offences against the State, *e.g.*, waging war against the King, etc., in that case I submit that Government will have no end of trouble to face owing to the increase of unemployment and unrest. Apart from this, this clause does not even confine itself to cases of persons who are guilty of civil disobedience. It is wide enough to catch within its net

persons regarding whom there can be no question of employment in any service of Government or local bodies. The term of sentence that is put here, namely, three months or more, is of no importance, as a sentence merely does not show whether an offence is a grave one or not from the moral point of view. There is the anomaly often found that for the same offence while one Court will be disposed to give three months, another Court may give six months or a year. Therefore, the question of three months or more has no significance whatsoever, and I do not see why the criterion of exclusion should be a limit of three months beyond which there will be no exclusion. It may be that in the case of a serious offence involving moral turpitude a sentence of less than three months may be given. The limit of three months set forth, therefore, is not enough justification to my mind to take the case of the ordinary offenders out of the general rule and bring them within the rigorous rule of this law. If there is any such qualification attached to it, for instance moral turpitude or anything like that, in that case it may be acceptable to some sections of the House. But without any such qualification the whole thing stands in the way of the House accepting the entire clause. I, therefore, support the amendment of Mr. Shanti Shekhareswar Ray to exclude this part of the clause, as it does not affect the main principle of the Bill with which I find many are in agreement. It will save the Minister or whoever may be in charge of this particular portfolio, now and in the future, much trouble as at the same time it will not attack the self-respect of the Corporation seriously; if the Corporation cannot be trusted not to employ ordinary thieves or burglars, the sooner all powers are taken away from that body the better.

Mr. R. MAITI: Mr. President, Sir, in rising to support the motion of Mr. Shanti Shekhareswar Ray I may at once say that nothing could be more drastic than the insertion of this portion of the clause, namely, "or has been sentenced to imprisonment for a term of three months or more" in the Calcutta Municipal Act. Sir, this is a clause which does not mention or specify the section or sections or any law under which a person has to be convicted and sentenced to imprisonment for a term of three months or more, in order to disqualify him for any appointment under the Corporation of Calcutta. It has been so worded that it does not exclusively mean the offences against the State or similar cognate offences under any other provisions of law of a like nature. To my mind it appears that it may bring within its purview all persons who may be sentenced to imprisonment for three months or more under any law of the land. Even a man convicted of ordinary common assault in respect of his private affairs is not excepted.

Sir, legislators should always intend that every law made must be self-contained and most definite in its nature. But here it is so vague

and indefinite that it cannot have the proper legal sanction behind it. Sir, you can penalize a particular set of persons convicted of a particular kind of offence and there may be some justification for it, but it stands to no reason when you attempt to penalize all persons convicted of any offence under any law of the land. Sir, in ordinary human affairs there may arise plenty of occasions when people may be justified to some extent to take the law in their hands. Take, for instance, the cases where a man has to act in exercise of his right of self-defence, or his *bonâ fide* claim of right or on a sudden and grave provocation. In these cases, if he goes a little beyond the limit of law, the law does not exonerate him. He is punished all the same. In these circumstances, if he is sentenced to imprisonment for a term of three months or more, he comes under the ban for not much fault of his own. Sir, I see no reason why such persons should be brought under this clause. If you want to introduce such a penalizing clause at all, the first portion of the clause is quite enough for the purpose, *viz.*, one who has been convicted of an offence against the State. But there is absolutely no justification, nor necessity for retaining the latter part of the clause, *viz.*, one who has been sentenced to imprisonment for a term of three months or more.

Furthermore, Sir, the mover of the Bill intended this clause to operate in cases where the person has been sentenced either to rigorous imprisonment for any term or to simple imprisonment for a term of six months or more. There was some restriction imposed by the use of the words "rigorous" or "simple". But the Select Committee has made this clause more wide in its application by omitting the words "rigorous" or "simple". So under the clause proposed by the Select Committee, anyone convicted of a minor offence, which involves no moral turpitude even, can be brought within the mischief of this section. In this respect the Select Committee is much more to blame than the mover of the Bill. Anyway, no one should have any sympathy with such a clause which seeks to ban all persons who have been sentenced to imprisonment for a term of three months or more—no matter under whatever law they are convicted.

Again, Sir, there is another point of view and it is this: Sir, there may be found plenty of persons even to-day in the employment of the Government, who have been convicted and sentenced as such under circumstances I have already stated before. But the Government has not thought it proper to dispense with their services. Then, Sir, I fail to understand why the Hon'ble Minister should be so very anxious to take the initiative in this matter and introduce such a piece of drastic legislation in self-governing institutions under his charge? It has been said, Sir, that such legislation is being brought in the interests of the rate-payers of Calcutta. Everyone knows that the rate-payers of Calcutta do not want it, the Corporation do not want it, and the general

public do not want it. Then, Sir, for whose interests has this Bill—rather this clause of the Bill—been framed? It is only to satisfy some people who have no welfare of the country in their hearts.

Sir, apart from this, there is also another point of view which requires careful consideration. Sir, if this portion of the clause is allowed to stand to-day in the Calcutta Municipal Act, there is every likelihood of extending the same provision to-morrow to other institutions including the departments of the Government. In that case, there will certainly arise a great difficulty in finding a sufficient number of qualified men for employment in all those institutions who have a clean slate against their character.

Sir, if you ban all the persons in this way, where will they go then? It ought to be the duty of the State to provide for them. So long as the State can make no such provision for their employment in any sphere, they are not entitled to make a provision only for their removal from service and throw them destitute upon the world. This will merely add to the number of the unemployed and lead to the enormous discontent of the people in the country.

So, Sir, from any point of view the retention of this clause is not at all desirable. I, therefore, wholeheartedly support the motion of Mr. Shanti Shekhareswar Ray.

Mr. P. BANERJI: Sir, I rise to support the motion moved by my friend Mr. Shanti Shekhareswar Ray. In doing so, I must first tell Maulvi Tamizuddin Khan that nowhere has it been suggested that by the deletion of this clause we mean the appointment of dishonest persons in the Corporation. Sir, we want to make it distinctly clear that the Corporation in the ordinary course of things will not—and the Hon'ble Minister has not been able to cite any instance—appoint either a thief or a dacoit or any such dishonest person. That, however, is not the point. The point is—what does the Hon'ble Minister want? Does he want that all persons who are guilty of offences, even if they are of a trivial nature, against the State and who do not come under the provisions of Chapters 6 and 7 of the Indian Penal Code, which deal with offences against the State, should be debarred for all time to come for any appointment under the Corporation? Take, for instance, the case of thousands of people who, from our point of view, are quite innocent —I mean the civil disobedience prisoners who for their free opinion have been convicted. It is known to us how such persons are convicted. Most of them do not take part in the proceedings of the Court. Sir, I challenge the English justice in this country. It is often found that most of these persons who do not take part in the proceedings are convicted by the Magistrates to terms of six or eight or twelve months. If you scrutinise the cases of these 9,300 people, you will find that they have been sent to jail only for expressing their free opinion.

Then again, Sir, it is seen that for the same offence different terms of sentences are passed by different Magistrates. A man committing a particular offence is sentenced to three months' imprisonment, while another man committing the same offence is sentenced to six or nine months' imprisonment. So there is no uniformity. The other day a man like Dr. P. C. Ghose has been imprisoned for eighteen months for the same offence. Just imagine that a man of his position, whose integrity even the Hon'ble Minister or Mr. Townend who wants to have forced loyalty, cannot question, is debarred from appointment, although no one can say that he is dishonest. Now what I want to make clear is whether the Hon'ble Minister wants to exclude person who may have offended against the State by expressing their free opinion from being appointed in the Corporation. The Hon'ble Minister has said that there is no vindictive motive on the part of the Government. But if it is so, then how is it that these persons of all persons are sought to be debarred from Corporation appointments in this way? Let the Minister rise to the occasion and prove that there is no vindictive motive behind this provision. With these words, I support the motion whole-heartedly.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. President, Sir, first of all I like to make it clear that the object of Government, as has been alleged, is not to gag or paralyse the Corporation, but just to prevent the Corporation from holding out Corporation appointments as rewards for anti-Government activities. This I have repeated times without number, and I have to repeat it once more. Sir, Mr. Narendra Kumar Basu has given us a homily on rules and orders being left to the Executive Government. But this clause does not contemplate leaving any rules or orders to the Executive Government, because that refers to the proviso in this clause and the proviso is not touched by the amendment. The amendment seeks to omit two lines in the first part of the clause, namely,—"or has been sentenced to imprisonment for a term of three months or more." Sir, it has been said by several speakers that Government should be satisfied with the provision about offences against the State. But that is not quite enough. There may be offences against the State, but they may not be technically within Chapters 6 and 7 of the Indian Penal Code. For instance, offences against human body or property may be committed with a political motive, and they may be looked upon by the Corporation as fit services to be rewarded by offer of appointments. That is what we want to prevent. Then as regards the civil disobedience prisoners, they do not come under Chapters 6 and 7 of the Indian Penal Code, and they have got to be dealt with. I agree to differ with those who think that they are honest workers of the country and should not be touched or that their services should be rewarded, and Government cannot acquiesce to that view. I have made it abundantly clear that

Government must see that the Corporation appointments are not offered as rewards even for civil disobedience. Moreover, there is no dearth of honest men or rather I should say men with unblemished character. So, what is the necessity of this solicitude for persons who have been convicted? There are thousands of graduates, there are thousands of honest men and thousands of capable men who are out to seek employment, and this clause only puts a limit to the Corporation's choice of officers only with regard to those who have suffered imprisonment for a definite term. The world is wide enough and the number of candidates is very large. So, the Corporation's choice is not limited beyond a certain class.

Rai Bahadur Keshab Chandra Banerji wants to know why persons convicted of offences in connection with self-defence should be debarred from Corporation appointments. That is never the intention of Government and that is why the clause contemplates the approval of Government. As I said before that that discretition must be left to Government and cannot be delegated to a local body who are admittedly anxious to reward persons who have been convicted of offences against the State. I wish that discretion could be left to the Corporation. In that case there would not have been any necessity for this Bill. But as the Corporation has forfeited that right, Government had to step in. On these grounds I oppose this amendment.

Mr. Shanti Shekhareswar Ray's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chaudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Raut, Babu Nasoni.
Ray Chaudhuri, Babu Hem Chandra.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman
Cohen, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. H. G. A.
Ekramuji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. H.

Ghuznavi the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. N.
Gladding Mr. D.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hossain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Miller, Mr. G. G.
Mitter, the Hon'ble Sir Provash Chander.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Mohammad Abdul.
Mullick, Mr. Mukunda Behary
Nag, Reverend B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. G. K.
Philpot, Mr. H. G. V
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Rees, Mr. J. D.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, Mr. S. N.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rohati Mohon.
Sen, Mr. S. R.
Sen, Rai Saheber Birla Chandra.
Townsend, Mr. H. P. V.
Wilkinson, Mr. N. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 21 and the Noes 67, the motion was lost.

Maulvi ABDUL HAKIM: Sir, I beg to move that in clause 4, in proposed section 54A (*1*), in lines 4 to 6, for the words "or has been sentenced to imprisonment for a term of three months or more" the words "or an offence involving moral turpitude or has been sentenced to rigorous imprisonment for a term of six months or more" be substituted.

Sir, my amendment is a very compromising one and has only suggested a middle course, so as to reduce the unnecessary rigid portion of the provision made in the proposed new section 54A. As regards the first point of my amendment, I am of opinion that men committing offences involving moral turpitude should not be employed in the Corporation or in any other public functions. I can safely say that offences involving moral turpitude are very heinous crimes. Men devoid of moral character are pests of the country and society, and can do any amount of mischief whenever they find opportunity. Hence, it is needless to explain that men of moral debasement should never be entrusted with any public functions. Certain offences of this type, such as stealing a needle, a pen, a pie or taking a single pice as a bribe, are no doubt offences of a very trivial nature, but as daylight can be seen through very small holes, these little offences expose a man's character.

And hence persons convicted of any such crimes should be debarred from any public service.

As regards the second point of my amendment, I can very well say that the Hon'ble Minister in charge of the Bill has gone too far. Save and except the heinous offences against the State as defined in the Indian Penal Code, a man may be sentenced to imprisonment for a term

of three months or more for various other offences under the Indian Penal Code, or under any other Act such as the Motor Vehicles Act or the like. But these offences may be of accidental nature and is not expected to involve moral turpitude in their nature. Suppose a man trespassed into the house of a Corporation officer or a servant, with a view to kill him, and suppose a violent assault took place in course of which the officer or the servant, as the case may be, exceeded the right of private defence and beat the man so severely that he was killed, and the officer or the servant was sentenced to rigorous imprisonment for more than three months. Now, Sir, under these circumstances would the Corporation be justified in dismissing the officer or the servant though he is sentenced to rigorous imprisonment for three months or more? If the Hon'ble Minister excuse me, I may cite another illustration of a glaring nature. Suppose the Hon'ble Minister himself drove his car so carelessly that he accidentally caused the death of a passer-by by his careless driving, and consequently was sentenced (of course God forbid this) to rigorous imprisonment (laughter) for three months or more. Now would the Government be justified to dismiss the Hon'ble Minister from his exalted service for this offence? I dare say that offenders of this nature should never be deprived of their services, whatever the terms of their imprisonment might be, as the offences do not involve any moral turpitude on the part of the offenders. I am astonished to note that the Hon'ble Minister has treated the rigorous imprisonment as well as the simple imprisonment alike. This is quite unreasonable. Simple imprisonment is always given for trivial offences under special circumstances and these offences do not involve any moral turpitude. So the question of simple imprisonment should not at all come within the purview of this Bill. My friend, Munindra Deb Rai Mahasai, has laboured much to convince the Hon'ble Minister in charge of the Bill that the disqualification should consist only of offences involving violence; but I think he is wrong in his argument. A man should not be deprived of public service, simply because he has committed an act of violence. My friend, Rai Mahasai, will be able to find out his error if he considers the reasons adduced by me just now, and more so, if he consults the chapter of the Indian Penal Code dealing with offences involving violence.

The amendment moved just now by my colleague, Mr. Shanti Shekhareswar Ray, expressed a rather reasonable modification, but he also has failed in his attempt. The Hon'ble Minister has framed the Bill in such a hard-and-fast shape, that if the Bill is passed as it is, it will exclude an eminent man like the late Sir Surendranath Banerjea from seeking any office in the Corporation if he were alive at this time and if he so wished; though the Hon'ble Sir Surendranath Banerjea, after having been imprisoned by Government, was afterwards appointed a Minister of great name and fame by the same Government.

The Hon'ble Minister has done and is doing much for the satisfaction of Government, but he should do something for his country also. If he accepts my amendments, I hope he will be able to satisfy his country also to some extent, thereby doing no harm to the Government; and as a popular Minister he is morally bound to do so.

Considering the above circumstances, I have tabled my amendment in the way in which it stands, and I do this from a spirit of compromise and to advise the Hon'ble Minister not to be so cruel to the Corporation, but to adopt a middle course in the case of persons punished with rigorous imprisonment for offences not involving moral turpitude. As wise men always adopt a middle path in all their actions, so I hope the Hon'ble Minister also would act wisely and would not throw cold water on my amendment and would be glad to accept it. With these words I commend my amendment for the acceptance of the House.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I see that several amendments of the same nature have been moved.

Mr. PRESIDENT: Order, order. We had better have one discussion on several motions which deal with the same matter practically, namely, 44A, 45 and 47.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, several motions on the same lines are now before the House; some have been discussed, one is in the course of discussion, and others will come later on and I see that Government also propose to remedy the defects arising from this rule, later on. For they say that the Local Government may, by notification in the *Calcutta Gazette*, exclude any class of municipal appointments, or any class of municipal officers or servants, specified in the notification, from the operation of all or any of the provisions of section 54A or of section 54B, respectively, either wholly or in respect of any class of convictions or sentences so specified.

This is what Government propose, but may I ask one question as to whether Government have decided what classes of convictions or sentences they want really to exclude from the operation of this Act? Sir, a lot of speeches has been delivered under the impression that any and every kind of offence may be covered by this Act, and Government later on—probably to-day or to-morrow—will announce what classes of offences they decide to exempt. But, Sir, can we get some idea as to what classes of offence Government are prepared to exclude now, for that will make the position of Government clear to those who really think absolutely impartially in matters like this, because oftentimes they are in a difficulty to understand the real position. Some of my friends are under the apprehension that an offence under the Motor Vehicles Act will be an offence which will come under the purview of

this Act. But we do not know whether it will actually be an offence leading to disqualification; so the position should be made clear, and Government should at once tell us what class of offences they contemplate excluding. I think, Sir, that a statement from the Hon'ble Minister as to the nature of the offences that will be excluded from the operations of this Act will solve our difficulties, and I would accordingly request him to enlighten us as to what is in his mind when he is going to move his motion No. 121, because that will make our task lighter.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I first of all answer the question that has been put to me by the Nawab Sahib? As I have said, the provisions of this Bill are never meant to apply to persons convicted of offences of a non-political character. What Government seek to do is to prevent Corporation appointments being looked upon as rewards for anti-Government activities—I can only repeat that. As regards the instance cited by the Nawab Sahib whether any person convicted of an offence against the Motor Vehicles Act would be exempted by Government under this proviso or not, I have no hesitation in saying that in such cases Government do not intend to bring them under this disqualification. That has never been the intention of Government.

I oppose the amendment.

Mr. NARENDRA KUMAR BASU: Sir, may I inquire if you will now take up amendment No. 25 of Babu Kishori Mohan Chaudhuri, which stood over?

Mr. PRESIDENT: The first part of it the member decided not to move. We decided to deal with the second part of it after amendment No. 36 was disposed of, but Kishori Babu gave me to understand that he would support amendment No. 36, and not move his. The third part of his amendment will be taken up as item 36A.

Maulvi Abdul Hakim's motion was then put and lost.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 4, in proposed section 54A (*1*), in line 4, for the word "or," the word "and" be substituted.

Sir, I am making a last effort to induce Government to take a reasonable view of things. At long last we have heard from the Hon'ble Minister that it is not the intention of Government to keep anybody out of employment except those who have been convicted of political offences. Only just now my friend Maulvi Tamizuddin Khan somehow or other got the impression that it was my intention to give greater facilities to thieves, dacoits, and cheats in securing appointments under the Corporation of Calcutta; but now the position has

become clear and we now know what the Government and the Hon'ble Minister want and what the Corporation does not want. The fact is that Government want that no one with anti-Government feelings or no one connected with the civil disobedience movement shall secure any appointment under the Corporation of Calcutta. Our position, on the other hand, is quite clear. We suggest that offences in connection with the civil disobedience movement should not be considered as disqualifying a person for service under the Corporation of Calcutta. It is only in serious cases that Government may object to the appointment of persons in the Calcutta Corporation.

Babu SATISH CHANDRA RAY CHOWDHURY: Can this amendment be moved? Because the effect of this amendment will be the deletion of this portion "has been sentenced to imprisonment for a term of three months or more," and if "and" is substituted, what will be the result? The House has already given an opinion on that.

Mr. SHANTI SHEKHARESWAR RAY: I beg to submit that the result will be quite different. You will see that if the sentence was omitted, only those who have been convicted of offences under Chapters V and VI would be debarred, but by accepting my amendment, not all those persons will be debarred but only those who have been convicted and sentenced to a term of imprisonment for more than three months, that is, those who have been held guilty of really serious offences. They may be guilty of technical offences.

Mr. PRESIDENT: I have already allowed you to move it. I overrule Mr. Ray Chowdhury's objection.

Mr. SHANTI SHEKHARESWAR RAY: To return to my point. I ask the Government to give up their vindictive attitude towards civil disobedience prisoners and confine their attention to really serious offences against the State. By that way, they will not alienate the sympathy of the public. On the other hand, if they throw their nets too wide, the whole object will be frustrated and there will be no public sympathy with the policy of the Government. What is wanted is not a legislation of a deterrent nature, but a legislation that has got the support of the people in the country. By limiting their discretion against men convicted of an offence like that of waging war against the King or sedition of a very serious nature, perhaps the Government may have sympathy of a large section of the public. With this view, I commend the motion to the acceptance of the House.

Babu KISHORI MOHAN CHAUDHURI: I whole-heartedly support the motion of my friend, Mr. Shanti Shekhareswar Ray. It

has been repeatedly asserted by the Hon'ble Minister that Government have no intention to proceed against the Corporation in cases where the appointments made are not looked upon as rewards for anti-Government activities. If that is so, I think that this modest suggestion that "or" should be substituted by "and" should be accepted; otherwise, how can my friends say, as has been just now pointed out that a man convicted of an offence under the Motor Vehicles Act or such other law shall not be touched? How can he be excluded if he had been sentenced to a term of imprisonment for three months or more? I think he cannot be excluded unless this "or" is changed to "and." What we suggest here, whatever might have been our opinion as regards the whole matter, is practically a very modest request. Our request is this: as you do not intend to proceed against persons who are not connected with anti-Government activities, you should make the clause explicit on that point. We also suggest that the case of mere conviction should not be enough, but that the degree of offence should also be considered. This would be facilitated if this "or" is changed to "and", so that if a man is connected with an offence for which the punishment is imprisonment for three months or more, the nature of his offence would also be taken into consideration. If it is a trivial punishment of imprisonment of less than three months, that man ought not to be penalised. Our object is to make it applicable only in cases in which the person is concerned with anti-Government activities of a somewhat serious nature, that is, in cases in which the punishment is not of a trivial nature. If that is so, the object of the Government would be sufficiently met and there would be no difficulty. So I earnestly appeal to the Hon'ble Minister that this suggestion be accepted. With these words, I support the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have practically replied to this point—a point covered by amendments Nos. 33-34. If this amendment is accepted, its only effect will be that persons convicted of offences against the State will not suffer from any disqualification unless the term of imprisonment is more than three months. That is not our intention; that is far from the intention of the Bill. Moreover, the mover of this amendment said that Government should not take up a vindictive attitude towards persons convicted of civil disobedience movement, and he very frankly, and if I may say so, very honestly stated his point of view, but I regret to say that Government cannot see eye to eye with him. But I may tell the House that it is far from the intention of Government to be vindictive in any way. If a person is convicted for joining a procession and is sentenced to an imprisonment for three months, certainly Government would consider his case and exempt him from the disabilities. It is not the intention of Government to persecute simply because he was imprisoned for

three months for joining a procession. But the difficulty of confining the section to what is now proposed is rather obvious. It will not make the offences exhaustive because, as I poiuted out on the last occasion, offences against property or against human body may be committed with an anti-Government and political motive. And these offences will be absolutely left out and persons committing such offences will not come under this clause. That is my difficulty in accepting this amendment.

Mr. Shanti Shekhareswar Ray's motion was then put and lost.

(Here the Council adjourned for 15 minutes for prayer.)

(After adjournment.)

Babu KISHORI MOHAN CHAUDHURI: Sir, with your permission I should like to move the portion of my amendment No. 25. The other two portions have been disposed of.

I beg to move that in clause 4 in proposed section 54A (*1*) in lines 5 and 6 for the words "imprisonment for a term of three months or more," the words "rigorous imprisonment for more than three months or simple imprisonment for more than six months" be substituted.

I submit, Sir, that this is also a very modest suggestion. We want to see that only cases of a serious nature are taken notice of. The provision is that with the permission of the Local Government one may apply for a post, but the difficulty is that if anyone is to make an application for appointment, he has to make a declaration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, what precisely is the amendment after he has modified it?

Mr. PRESIDENT: He has already read it out. You may get a copy of the amendment as it now stands.

Babu KISHORI MOHAN CHAUDHURI: I say in case of imprisonment for three months or more make it rigorous imprisonment for more than three months and simple imprisonment for more than six months; that is, only the serious offences should be taken notice of. Sir, all our attempts to make the clause acceptable to all have failed. But we now suggest to Government to make the provision of the law applicable to cases in which the offences complained of may be of a somewhat serious nature, in which rigorous imprisonment at least for more than three months has been awarded or simple imprisonment for more than six months. If this were done, then persons sentenced to any imprisonment for any offence of a trivial nature will not be affected. The reason for my suggesting this is that if anyone is to apply for a post under the Corporation, he shall have to make a declaration of his conviction and he shall have to apply for

Government sanction. If he is excused by Government, he will be able to make an application, and in that application he has to make a declaration that he was imprisoned for such and such offence and that he has been excused by Government. What will be the result of such applications? My point is that whenever there is a vacancy, a large number of persons become applicants for it. It will not do to say—Why should the Corporation be very anxious for such and such persons when there are a thousand and one men who may be very honest and capable without having anything against them? It is not for that that we are very anxious. We are not very anxious to see what sort of men should be appointed by the Corporation or whether there is any dearth of candidates or whether there are many candidates available who are not of an objectionable character. The object is to see that in these days persons may not be unnecessarily harassed. As has been suggested, to deprive a man of a thing which he thinks he is justly entitled to makes him exasperated and in case of necessity one does not know what to do. Men like Bhudeb Mukherjee went to commit suicide by jumping into the Ganges; so when one cannot maintain himself or his family, nobody can tell what he will do under such peculiar circumstances. The result will be, if he is deprived of any opportunity of earning his livelihood by honest means, that either he will go to swell the ranks of dacoits and goondas, or he will join the terrorist class or any such organisation, under such peculiar circumstances. These are the considerations for which we think that Government should be humane and should not do anything the result of which will be to swell the class of these undesirable persons. It is in this view that we suggest that only persons sentenced to rigorous imprisonment for more than three months or to simple imprisonment for more than six months should be affected by this provision, so that anybody and everybody may not be under the necessity of approaching Government or taking other means which may be beyond his power. For these considerations I beg to suggest that this amendment may be considered and my suggestion accepted.

Mr. H. P. V. TOWNEND: Sir, I have very little to say in reply to this amendment. It is one of a series of amendments put forward apparently with a desire to make a change for change's sake. It will be noticed from the Bill itself that the clause as it now stands was altered by the Select Committee which held after a good deal of consideration that rigorous imprisonment for any term or simple imprisonment for a term of six months or more should be changed to imprisonment for a term of three months or more. Government are not particularly interested in this, but we consider that all changes should be resisted in matters which have been settled by the Select Committee after a good deal of deliberation and careful thought.

I oppose the amendment.

Babu Kishori Mohan Chaudhuri's motion was then put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 4, in proposed section 54A (*1*), in lines 5 and 6, for the words "three months," the words "one year" be substituted.

Sir, the purpose of my amendment is so clear that I need not speak anything on this matter. In the original Bill, before it was considered by the Select Committee, the period was six months, and I do not think that three months have improved matters, rather it has been a change for the worse. I, therefore, proposed that "one year" should be substituted for "three months," and I consider that to be a reasonable period. I, therefore, commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 4, in proposed section 54 (*1*), in lines 5 and 6, for the words "three months," the words "six months" be substituted.

Sir, I will give only one argument, which is a very ancient one and which is absolutely irrefutable: that is, that since the days of Pythagoras onwards, six has always been considered to be greater than three. The only other thing that I would point out is that in clause 54B this magic number six appears in the case of persons already in service, and I do not see why it should not be the same in the case of persons who apply for appointments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the Select Committee considered the points urged by Dr. Sen Gupta and they decided to leave the period as in the Bill. So I oppose the motion.

Dr. Amulya Ratan Ghose's motion was then put and lost.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in the proviso to proposed section 54A(*1*), in lines 3 and 4, for the words "five years," the words "one year" be substituted.

Sir, the intention of this amendment is quite clear and no speech of mine is required to explain it. My intention is that the disability should automatically cease at the end of one year after the conviction and not subsist for five years because, Sir, I take it that the people whom the Government want to exclude, as has been just said by the Hon'ble Minister, are really people who took part in the civil disobedience movement—young men mostly—and it is the case if not of

the Hon'ble Minister but that of the Government as we have heard in this House, that most of these young men were led astray from the paths of—I will not say rectitude—but of lawfulness by the advice of older men, and I take it, Sir, that many of these young men since the stoppage of the civil disobedience movement, are anxious to get back and earn a decent living.

Mr. PRESIDENT: Would you find it convenient to move the next motion also and make one speech? I propose to take all the amendments from No. 51 to No. 57 together and have one discussion. I shall, of course, put them separately.

Mr. NARENDRA KUMAR BASU: I beg also to move that in clause 4, in the proposed proviso to section 54A (*1*), in line 3, for the word "five," the word "two" be substituted.

I am asking the House to fix a smaller period of time than five years, because after five years of enforced idleness probably many of these men would be absolutely unfit to render good service either to the Corporation or to anybody else. I am, therefore, asking the House and the Government to consider whether they could not reduce the period to one or two years.

Rai Bahadur JOGESH CHANDRA SEN: Sir, many words are not needed to commend this motion to the acceptance of the Hon'ble Minister. Those who come out of jail are generally anxious to come back into the fold of the society and to live an honest life. Therefore, I think, they should be given a chance to live honestly. If the Hon'ble Minister would accept the motion, I do not think it will harm anybody.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There are two proposals before the House: One is that the period of disqualification should be reduced from five years to one year and the other from five to two years. Government is not in a position to accept either of them, because in their opinion one or two years would be a very short period. For reformation of a man, at least five years should elapse before there can be any change in his mentality, and if in the meantime he reforms, there is nothing to prevent the Government from removing the bar. Under section 22, sub-section 2 of the Calcutta Municipal Act the period of disqualification for any person offering himself as a candidate for election, is five years. On that analogy five years' time has been put in here.

The two motions of Mr. Narendra Kumar Basu were then put and lost.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 4, in proposed section 54A (*2*), in line 1, for the word "every," the following be substituted, namely:—

> "The appointing authority of the Corporation may require by a particular or general order that any or every"

and in line 11 before the words "no person" the words "in such case or cases" be inserted.

Sir, my reasons for moving this amendment are that under the Bill as it stands every person applying for a post, whether that post carries a salary of Rs. 5 or Rs. 500 or Rs. 2,000, is required to sign a declaration that he has never been a criminal in his life. This, I submit, is an insult to the whole nation. It embodies a presumption that the whole nation is criminal and the exceptions are to be proved by the declaration. It reminds one of the days of Lord Macaulay when the whole race was vilified and the result was not a happy one for any party. By this amendment I would like to stop any such presumption being raised against the whole nation. Furthermore, the acceptance of my amendment will not take away the responsibility of the Corporation in the matter of appointments. I want that it should be left to the discretion of the Corporation to require any particular candidate, if they so think fit, or by a general order to require every candidate to state in a declaration that he has never been guilty, etc. The subsequent clauses will be left more or less untouched and the result will be that in the case of an appointment being made against the spirit or letter of the law, that appointment will become void or invalid. As a matter of fact, the Corporation's responsibility would not in any way be lessened. This amendment is almost in line with another amendment, No. 59, tabled by Mr. P. N. Guha. He would also take away the obligatory character of this clause by requiring that a candidate shall, if he has at any time been convicted of an offence against the State, etc., state in writing the particulars of such sentence or conviction. My amendment rather makes it more obligatory on the part of the Corporation to inquire in every case whether there is any chance of any candidate creeping in who is not desirable under the provisions of the law. By this amendment I do not propose to interfere with the penal clause which is there and which makes it punishable with a very heavy fine and also with imprisonment a person making a false declaration. I submit that with the penal clause standing, it would make every person applying for a job under the Corporation very cautious in making a false statement. Therefore, it is needless to insist in the case of every

candidate that he should make a declaration to the effect that he had never been a criminal. I submit that any self-respecting man would take it as a great slur and would naturally refuse to submit to any condition like this. With these words I leave the motion to the acceptance of the House.

Mr. P. N. GUHA: Mr. President, Sir, I beg to move that in clause 4, for proposed section 54A (*2*) (*a*) and (*b*), the following be substituted, namely:—

"(*2*) A candidate seeking an appointment of any nature under the Corporation shall, if he has at any time been convicted of an offence against the State or sentenced to imprisonment for a term of three months or more, state in writing the particulars of such sentence or conviction. Any person so convicted or sentenced shall not be appointed to any post under the Corporation except under the provisions of sub-section (*1*)."

Sir, I think the intention of my amendment will be clear to every member of the House. It has been provided in the Bill that every candidate for appointment as a Municipal Officer or servant shall declare in writing that he has not been convicted of an offence against the State. I do not think it is fair to compel even those who have not been convicted at any time to undergo the indignity of making a declaration like that. I have made it clear in my amendment that a candidate seeking an appointment of any nature under the Corporation shall, if he has at any time been convicted of an offence against the State, be compelled to make such a declaration, failing which there is a provision for punishment in the subsequent clause. I do not think the Government will lose anything in accepting my amendment. So far as I know a provision under which candidates seeking appointment must make such a declaration does not exist in any institution of Government. Sir, I have been told that the question of indignity cannot arise in being compelled to make such a declaration. It has been pointed out that a person who has to get himself enrolled as a solicitor of the High Court has to declare that he was never declared an insolvent and a gentleman who goes to insure his life has to declare that he had at no time suffered from a certain class of disease. That, however, is quite a different matter, but the declaration proposed to make compulsory for all seekers of employment under the Corporation of Calcutta is in force in no Government or semi-Government institution.

Sir, the post of the City Architect of the Corporation is vacant just now. It is not impossible that it will be advertised simultaneously in India and abroad. With what justification the Corporation will ask the European or American candidates to declare that they have not been imprisoned at any time for an offence against the State? Then,

the post of the Chief Executive Officer is going to be vacant in a few weeks' time, and it will have to be advertised if the present incumbent is not reappointed. In that case persons of high standing and ability are likely to apply for it. Will it not be considered undignified by such persons to make a declaration that they had at no time been convicted of any offence against the State? Sir, this clause, if retained, will be a standing black mark for the Corporation for all time to come. Why single out the Corporation of Calcutta as the only institution in the country where only the convicted persons are likely to seek jobs? My proposal, if accepted, will not hurt the dignity of all and sundry, but will make it obligatory for the persons who have been convicted to make a declaration to that effect. Sir, I maintain that the clause as it stands will in all times to come be considered insulting not only by persons seeking appointment, but by everyone connected with the Corporation. I, therefore, hope that the Hon'ble Minister will accept my amendment.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, I rise to oppose this motion. My friend, Mr. P. N. Guha, who has moved this motion, has so consistently up till now during this debate supported the position that Government by executive order can remove all injustices and all unnecessary insults, that it is rather late for him to say that because Britishers and Americans might apply for some of these posts, therefore this clause should be remodelled. I submit that he is forgetting that the Local Government, by virtue of its power under clause 54B (*b*), has the power to remove any class of appointment from the operation of any of these rules. There is nothing to prevent them doing so;—in fact, I shall go further and say that Government will, very probably, the day after this Bill is put on the statute book, issue a notification that none of the clauses of this Act shall apply to any European and American, so that my friend, Mr. P. N. Guha, is needlessly exercising his soul over his anxiety for Europeans and Americans, who may consider that they will be insulted by having to write out such a declaration. But I might tell him that they will never be called upon to make such a declaration at all, and Mr. Guha may rest his soul in peace that the Local Government, as it is now constituted, will certainly take precious good care that the feelings of no European or American are ruffled.

Rai Bahadur JOGESH CHANDRA SEN: Sir, I do not find any force whatsoever in Mr. Guha's arguments. Why should he be so very indignant and afraid of insults? If the citizens of Calcutta can stand the other clauses of this Act, they can easily swallow this clause also.

But why should there be this silence? Silence is not always golden. It is liable to be interpreted differently at different times. Moreover, there is a penal clause for those who will make false declaration. If one is silent and it subsequently transpires that he was guilty of some offence, you won't be able to bring that person under the clutches of this Act as there was no declaration by him. Under this circumstance, silence cannot be supported, and I do not know why he should be so indignant. Therefore, I oppose his motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose both the amendments. My friend Babu Satish Chandra Ray Chowdhury suggests that the discretion should be left to the Corporation, while, according to Mr. Guha, the Corporation should not be given a chance or opportunity to insult persons gratuitously. (MR. NARENDRA KUMAR BASU: Reserve it for yourself.) If it is the general rule, of course, no one can take exception to it, but if this amendment is accepted, then the Corporation in its discretion may ask one person to make a declaration and exempt another. I think, Sir, that it is a proposal which should not be supported.

As regards Mr. Guha's amendment, his proposal is that only those persons who have been convicted should be asked to make that declaration, the latter portion of his amendment is practically consequential. If his amendment is accepted, some persons applying for Corporation appointments will make the declaration while others will not. This will introduce an invidious distinction. Moreover, if there is no declaration to be made, a person who has been convicted but suppresses the fact of his conviction and makes no declaration, may not be guilty of any offence. That would make it difficult for Government to tackle him afterwards. On these grounds Government have got to oppose both these amendments. It is not at all derogatory, as my friend seems to think, to ask a candidate to make the declaration. On the contrary, it is the common practice in many cases.

Mr. NARENDRA KUMAR BASU: Where?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall presently give instances. For example, in certain cases a person has got to state whether he is indebted or not, for everybody is not in debt. So, the mere fact that a candidate is asked to state whether he is in debt or not does not argue that that man is in debt. Similarly, a person applying for enrolment as a solicitor in the Calcutta High Court has got to declare that he is not an undischarged insolvent. The mere fact that there is this provision does not prevent anybody from applying for

enrolment, because there is no presumption that the person applying must necessarily be an undischarged insolvent. So, the general rule can never affect a particular individual.

Babu Satish Chandra Ray Chowdhury's motion was then put and lost.

Mr. P. N. Guha's motion was then put and lost.

MUNINDRA DEB RAI MAHASAI: I do not move the motion standing in my name, but would give my friend Babu Amulyadhan Ray the first chance.

Babu AMULYADHAN RAY: Sir, I beg to move that in clause 4, proposed section 54A (*4*) be omitted. I wish it to be clearly understood by one and all in this House as well as outside the House that, in moving this amendment, I do not hold any brief for the Calcutta Corporation; nor have I been employed by the Hon'ble Minister to espouse the cause of Government. But what I am going to say is my honest and sincere criticism. The idea of distrust that is conveyed by proposed section 54A(*4*), and the question of self-respect of a corporate body, the administration of which is carried on by men of great ability and sense of full responsibility, have led me to move this amendment to-day. If the apprehension of the Hon'ble Minister, whose intentions I do not doubt, is that the Corporation authorities, while making appointments, will not strictly follow to all intents and purposes, the provisions of law as contemplated in section 54A (*1*), in spite of the declaration that a candidate has been convicted—and if that apprehension turns out to be a reality—the proper remedy does not lie in holding the appointing authority responsible as authorizing the making of an illegal payment. If such a contingency arises and if the representatives of the citizens of Calcutta mark a black spot on our national character and prove themselves unfit to work out a democratic institution practically gifted with complete independence, then my humble advice to the Hon'ble Minister is to supersede the Corporation and drive out the undesirable elements responsible for the violation of the law. But I do not understand why the Hon'ble Minister apprehends that the Corporation will make appointments in contravention of sub-section (*1*).

On a point of information, I ask him if there has been any case in the past in which the authorities of the Corporation have made appointments in violation of the express provisions of the law, and if I am satisfied with the answer I am prepared to beg leave of the House to withdraw my amendment. I fully realize the truth of the statements made by the Hon'ble Minister that the Corporation employed teachers

who, while in the Corporation service, were convicted of civil dis obedience and were granted leave. But I sincerely believe that th Bill is going to be passed into law of the land, not for choking th voice, or checking the activities of the extreme political party in th Corporation, but to put a stop to the abuse of power so widely given b the Act of Sir Surendranath. It is unfortunate for the rate-payers o the Corporation, unfortunate for the citizens of Calcutta that the action of their representative have driven this Legislature to the painful neces sity of putting restrictions on the free enjoyment of a gift so generously given to the Corporation by the father of Indian nationalism. But t be fair and just, I am bound to say that there was no law preventing such appointments, and that the existing section 54 of the Calcutt Municipal Act was not at all sufficient for the purpose. But appointment of this nature, though made by the Corporation, and though they canno receive our moral support, ought to be condemned by every right thinking man, because they are illegal. But in view of proposed sectio 54A (*1*), I do not think that a respectable and responsible body lik the Calcutta Corporation will become so much demoralized and humiliat ing that they would appoint persons convicted of offences against Stat or sentenced to imprisonment for a particular term. And I cannot con ceive that the Corporation authorities by their foolish activities wil strengthen the hands of the authorities of His Majesty's Government i England, as well as of the British die-hards, to incorporate more safe guards in the future constitution of India, and will stand in the way o transference of law and order into the hands of the responsible Ministers The proper remedy, as I have already submitted, is to supersede th Corporation and drive out the elements responsible for violation of law and order.

I shall deal with another aspect of the question. It may be argue and argued with some amount of force that there is no other provision i the Bill to penalise the authorities if the Corporation make the appoint ments in spite of the declaration of a candidate of his conviction. Bu in my opinion a corporate body with the same financial resources a our neighbouring province, I mean the province of Assam, should no be painted black of suspicion by express provision of law by putting it on the statute book. If the Hon'ble Minister with sober mind accepts the amendment No. 88 of my hon'ble friend Maulvi Tamizuddi Khan without the addition of the words "procured under such fals declaration or statement" and with the addition of the words "If an payment is made in consequence of such appointment, such officer o servant shall be deemed to have received an illegal payment," I an not in favour of making a law which will cast suspicion on the characte of a body of men many of whom will take up the responsibility o carrying on the administration of the future provincial autonomou Government, but I am in favour of a provision seriously penalising

those who will procure appointment as Municipal Officers or servants in contravention of sub-section (*1*). Whether the declaration or statement of his conviction be true or false, I do not care; I do not mind.

Dr. NARESH CHANDRA SEN GUPTA: My objection to this clause after the previous amendments have been disposed of is only this, that it is unnecessary. The only effect of this clause is to bring into operation the proposed clause 123B under which illegal payments may be debited as surcharge upon persons responsible, but the language of that section, as it stands, says "shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of illegal payments." The man who makes an appointment thereby authorises the payment of his salary to the officer in charge of the Pay Department, and, therefore, it would clearly be a case of illegal payment, and the whole thing is unnecessary.

The Hon'ble Sir BIJOY PRASAD SINGH RAY: I have listened with interest to the illuminating address of the hon'ble mover. I am sorry he is not here, but I am sure that he has not carefully followed the first portion of clause 54A. There certain provisions have been made about appointments, and that part of the clause which he seeks to delete only gives sanction to this clause. Without that portion of the clause, it would be very difficult to enforce the rest of it so that the whole thing will be quite ineffective. If officers are appointed under section 51 of the Calcutta Municipal Act by a resolution of the Corporation, that resolution may be nullified by Government under section 19 of the Calcutta Municipal Act. So, there we have a safeguard, but here persons are appointed by executive order, and there is no explicit provision to declare the appointment illegal. So to do away with it, effective provisions in this Bill is necessary.

Dr. Sen Gupta has said that it is quite unnecessary, as it is covered by proposed section 123 of the Bill. But I do not think so. A person making the appointment may not be actually authorising the payment. So he may or may not be authorising the payment, and he may escape. It is much better that the Act should be clear and explicit. If certain things are prohibited under the Act, and if any expenditure is incurred to give effect to that illegal order, the person giving the order should suffer for it. That is what is provided for in this part of the clause. I see no reason to accept the amendment.

Babu Amulyadhan Ray's motion was then put and lost.

Rai Bahadur JOGESH CHANDRA SEN: I beg to move that in clause 4, in proposed section 54A (*4*), in line 1, for the word "knowingly," the word "even after being specifically informed by the Local Government" be substituted.

Sir, the Hon'ble Minister himself has tabled an amendment No. 149 to explain the word "knowingly" in section 88A, but this explanation, I am afraid, has no bearing on this word here. It can, however, be changed as suggested by me here, or the position may be explained by the Hon'ble Minister. If the Hon'ble Minister wishes to say that here the word "knowingly" would refer only to the statement of the applicant and not to any knowledge beyond that, I would be quite satisfied and I would withdraw my motion. Otherwise, this will remain very vague and serious complications and intricacies may arise as to the definition, and they might have to go to Law Courts to have the word defined to save themselves from penalties and all those things. I expect a reply from the Hon'ble Minister on this point, and if the explanation is as I hope it would be, I would withdraw my amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid this amendment is practically meaningless because he suggests the words "even after being specifically informed by the Local Government" be substituted for the word "knowingly." How can the Local Government inform the officer, because the candidates applying will have to make a statement, and the person appointing will have at his disposal those statements. How can the Local Government come in there, Sir? It is for him to know. Certainly he cannot appoint a person without going through those statements, as is provided for in the Bill. It is not necessary for an outside agency to inform him of this. I oppose this amendment.

The motion was put and lost.

Babu AMULYADHAN RAY: I beg to move that in clause 4, in proposed section 54A (*5*), in line 4, for the words "five hundred," the words "one thousand" be substituted.

I have already made my position absolutely clear—that I am not in favour of penalising the authorities who will make appointments, but I am in favour of penalising those persons who will make a false declaration because that is very serious.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I formally oppose the amendment.

The motion was put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 4, in proposed section 54A (*5*), in line 5, for the words "one year," the words "six months" be substituted.

Sir, one year's imprisonment is too heavy a sentence for the offence. Justice should be tempered with mercy. The object of imprisonment

is corrective and not to make brutes of men. A heavy sentence would certainly have a brutalising effect which is not at all desirable in the best interests of society. I, therefore, think that six months' imprisonment will be enough for meeting the ends of justice. With these few words, I commend my amendment to the acceptance of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The maximum punishment should be a deterrent one because the offences are of a serious character. But it is not necessary that maximum punishment should always be inflicted. So I oppose this amendment.

The motion was put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 4, in proposed section 54B (*1*), in line 4, for the words "against the State," the words "involving violence" be substituted and in line 5, the word "either" be omitted and in lines 6 and 7, the words "or to simple imprisonment for a term of six months or more" be omitted.

Sir, I formally move this amendment and I do not want to say anything because all the arguments that I have adduced before apply to this case and I do not want to repeat them.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I formally oppose the amendment.

The motion was put and lost.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 4, in proposed section 54B (*1*), in lines 5 to 7, for the words "either to rigorous imprisonment for any term or to simple imprisonment for a term of six months or more," the following words be substituted, namely:—

"to imprisonment for a term of three months or more."

Sir, I do not see why here a different kind of punishment has been provided from what is to be found in clause 54A (*1*). It may be said that here the question is about existing municipal servants, and in the other case the question is not about existing municipal servants but about prospective municipal employees. But I think the position is extremely anomalous. What is the idea underlying this clause? Sir, if those who are already in municipal service are to be more severely dealt with, I think the purpose will not be served by the provision that is to be found in the Bill, because the punishment provided in this clause if it is rigorous imprisonment, is any term and is, therefore, less drastic than what it is in the other clause. Therefore, although in respect of simple imprisonment, the position of persons who are

already municipal servants is worse than the position of prospective employees, yet as regards rigorous imprisonment, the position is the reverse. The position is altogether anomalous. I think it would be much better if all are treated equally and the same ban is placed upon them without any distinction. If any distinction is made, it should be consistent and not hopelessly anomalous as is to be found in the Bill.

Dr. NARESH CHANDRA SEN GUPTA: Sir, if I do not move the motion that stands in my name, it is because the Council has already expressed an opinion on it. I oppose the motion of Maulvi Tamizuddin Khan. I appreciate his vigilant eye for detecting anomalies. But he did not detect the anomaly when I pointed out earlier in connection with an amendment of mine for raising three months to six months in the previous section. I think the answer to my motion of the Hon'ble Minister which satisfied the House ought to satisfy the House in this case also as *factum valid*, the Select Committee having kept it as it is.

Mr. H. P. V. TOWNEND: Dr. Naresh Chandra Sen Gupta has rightly given the reason why this should be opposed. The Select Committee considered this matter carefully and came to the decision to leave this clause as originally drafted. Their reason was this: The argument in favour of altering the other clause to which Mr. Tamizuddin Khan has drawn attention was that boys might be led into various illegal acts for which short terms of imprisonment might be awarded; but this clause deals with men who are already in responsible positions and who ought to know better. That is why the Select Committee left this provision for them to be treated differently. I oppose the amendment.

Maulvi Tamizuddin Khan's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, after the proposed section 54B (*3*), the following be inserted, namely:—

"3A. The Corporation may in any case for reasons to be recorded in writing exempt any person from the operation of sub-section (*1*)."

Sir, I do not think a long speech is required to explain the reason for which I want the insertion of this clause. My submission is—if there is any case in which the Corporation thinks that special powers should be vested in the Corporation to exempt persons from the operation of sub-section (*1*), the Corporation ought to have that power and I want the reasons to be recorded in writing so that the Local Government may satisfy themselves that the reasons given by the Corporation for such exemption are cogent ones. I do not think that this is in any

way derogatory to the large powers of Government reserved in the other clauses of the Bill, and I commend my motion to the acceptance of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government is not obsessed with that sense of importance as to feel it derogatory if this power is given to the Corporation, but it will certainly frustrate the object of the clause. The object of the clause is that discretion should lie with the Local Government and not with the Corporation. If the Corporation had not misused their powers, as is our allegation, this Bill would not have been necessary or this clause would never have been put in this Bill. So I oppose this motion.

The motion was put and lost.

Babu KISHORI MOHAN CHAUDHURI: With your permission, Sir, I should like to move the three amendments 111 to 113 together.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the first one is consequential on amendment No. 25.

Mr. PRESIDENT: How is it consequential? He only moved the latter portion of amendment No. 25. I think Kishori Babu can move all the three amendments and make one speech on them.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 4, in proposed section 54B (*4*), in lines 5 and 6, for the words and figures "sub-section (*1*)," the words "the provisions of this Act" be substituted.

I also move that in clause 4, in proposed section 54B (*4*), in lines 6 to 12, the words beginning with "and thereupon" and ending with "such order" be omitted.

I further move that in clause 4, proposed section 54B (*5*) be omitted.

Sir, my objection is this: It is provided that the Local Government may, of their own motion or on receipt of an application from the person concerned by an order in writing, exempt any person from the operation of this Act. If that portion remained and the remaining portion were omitted, then whatever might be the thing, the Local Government whenever they got any application, or of its own motion might exempt any person from the operations of the clause. In that case, it may not be necessary for any person in every case to go up to Government for an order and when that order will be passed he will be considered as suspended. The provision is that if the conviction or sentence in respect of which any person is deemed to be dismissed

under sub-section (*1*) is set aside by a competent Court, such perso shall be deemed to have been suspended, and not dismissed, fro service from the date of his conviction until the day on which tl conviction or sentence is set aside. Then the next clause runs a follows: "The Local Government may of their own motion or o receipt of an application from the person concerned by an order in writi exempt any person from the operation of sub-section (*1*) in respect of conviction specified in such order and thereupon such person shall l deemed to have been suspended and not dismissed from service fro the date of his conviction until the date of such order." And the ne clause is: "An application for exemption from the operation of sul section (*1*) may be made to the Local Government by the convicte person within two months after the date of his conviction. If the Loc Government fail to pass final orders thereon within three months aft receipt of the application, such person shall be exempt from the oper tion of sub-section (*1*) and shall be deemed to have been suspended ar not dismissed from service from the date of his conviction." All the things will not be necessary if simply it is provided that the Loc Government may either of their own motion or on receipt of an appl cation from any person concerned pass an order that he may be exempte from the operation of this Act. That will be a general provision, ar under that anybody may approach the Government or the Local Gover ment of their own motion can pass an order; so all these things may n be necessary, and in every case a man can approach the Governme within two months and if any order is not passed within three month it may be considered that the order has no force. So I say all the things may not be necessary if it be provided that Government may pa an order either of their own motion or on the application of the perso concerned that the person may be exempted from the operation of th Act. That will be quite sufficient, and I hope my motion will l accepted.

Mr. H. P. V. TOWNEND: The first of these amendments is reall a consequential one, otherwise one cannot find very much meaning in i

As regards the second, the provision in the clause is in the intere of the person concerned. Such a provision is necessary, because witho it if any pay is given to a man who is eventually acquitted, the payme may be held to be illegal and, without it, he would have no claim to l reinstated in his post. Therefore, it has been put in in the interest o the person who has been convicted.

I must say frankly that I do not follow the arguments given b Kishori Babu in support of his last amendment, and therefore I am n in a position to explain the reasons for my opposition.

I, however, formally oppose all the amendments.

The three motions of Babu Kishori Mohan Chaudhuri were then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in proposed section 54B (5), in line 4, for the word "two," the word "six" be substituted.

Sir, the clause says that an application for exemption should be made within two months after the date of his conviction. It may very often be the case that the man will then be in jail as a sentence in order to be a disqualification has got to be three months or more. Therefore, to ask the man to apply within two months after his conviction means that he will have to apply from jail. It really means that he will not have the facility of consulting his friends or lawyers or other people to make the application at all. It is like giving something with the right hand and taking it away with the left. If the Government really want to help these people to make an application, I take it that the period of two months is certainly not enough. Therefore, my submission is that the House would be well advised to extend the period from two to six months.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 4, in proposed section 54B (5), in line 4, for the word "two," the word "three" be substituted.

The clause runs thus: "An application for exemption from the operation of sub-section (*1*) may be made to the Local Government by the convicted person within two months after the date of his conviction." Two months is a very short period, and I want to make it three months. There may be a delay in the submission of the application on account of some unforeseen circumstances, and therefore, some consideration should be shown to the convicted person. I do not think an extension of the time by one month will upset the Government. If Government are determined not to accept any amendment, then I have got nothing to say. But my request is very reasonable and I, therefore, commend my motion to the acceptance of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose both these amendments. The original time was two weeks, and it has been extended to two months by the Select Committee. Moreover, it is in the interest of the Corporation that a decision should be reached as early as possible. Two months' time is not very short as Mr. Narendra Kumar Basu seems to think, because every Monday the persons in jail are, I believe, allowed to write letters.

Mr. NARENDRA KUMAR BASU: I think it is once a month. That is what I think is in the Jail Code.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am not sure, but I was told like that. In any case two months' time is quite sufficient for the purpose. If he wants to get this disqualification removed, he can do so in two months' time. It is both in the interest of the person convicted as well as in the interest of the Corporation that a decision should be reached as soon as possible without any waste of time.

Mr. Narendra Kumar Basu's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Rai Bahadur Kashab Chandra.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhari, Babu Kishori Mohan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hemni.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Barat Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Battamley, Mr. J. M.
Burn, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahmon.
Chawdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohan, Mr. D J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. N. G. A.
Faroqui, the Hon'ble Nawab K. G M., Khan Bahadur.
Faweus, Mr. L. R.
Ferguson, Mr. R. H.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hosain, Nawab Musharruf, Khan Bahadur.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Surat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chawdhury, Mr. K. C.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satteswar Singh.
Roy, Mr. Surat Kumar.
Roy, Mr. S. N.
Sandatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mahan.
Sen, Mr. S. R.
Sen, Rai Bahadur Girin Chandra.
Sen, Rai Bahadur Jogesh Chandra.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 16 and the Noes 67, the motion was lost.

Munindra Deb Rai Mahasai's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in proposed section 54B (5), in line 5, for the word "conviction," the words "release from imprisonment" be substituted.

Sir, my reasons for moving this are almost similar to the one that I have just moved and the House has rejected. But still the grounds are slightly different. I think that the time for applying to Government ought to be counted from the date of the man's release from imprisonment, because otherwise it means that the man will have to apply in all cases when he is in jail. The men will have to apply in all cases when they are in jail. It may be that after he has come out of jail and has turned over a new leaf and has had two months of freedom, he may probably be able to give some sound reasons and show to the Government that since his release after imprisonment he is not likely to go back to jail under those sections. I think he will then have better opportunities of convincing the Government that he is a person who may be exempted without any danger to the State. In these circumstances I think that to limit the term within which to apply for exemption to the term when the applicant is bound to be in jail and not to allow him sufficient time after his release to apply for such exemption is rather cruel. Sir, so far as I am aware, the object of punishment is to punish a man for an offence that he has committed. But here you are going to add to the punishment under the punitive provisions of the Penal and other Codes by making it impossible for him to find employment after he has been convicted and sentenced to three months or more. To the punishment that he has already been suffering you are adding the further penalty that he must apply for exemption while within the jail, that is to say, while he has not yet purged out his offence—and it is rather too hard. I do not see how any man who has been convicted and is now undergoing imprisonment in jail can put forward any cogent reason to the Government for exempting him from the operation of this section. The only ground on which Government is likely to exempt a person is that his conduct after his release has been such as to merit condonation. In other words, you say to the man who has been in jail that within two months of your conviction you must apply for exemption; that is to say, you are going to make the ostensible purpose of this section nugatory. It is only after the man has been released from jail and has been allowed to go about in liberty for at least one month, as the clause says, that he will probably have some chance of satisfying Government that it is not likely that his employment will be unwelcome, and that he is a person who merits consideration or rather mercy at the hands of Government and is a person who may be exempted from this clause. I would, therefore, think that instead of the word "conviction" the words "release from imprisonment" should be inserted in this section.

Rai Bahadur JOGESH CHANDRA SEN: Sir, may I crave your indulgence to move a short-notice amendment to my motion, that is, to add the word "or" after the word "conviction" before the words "release from imprisonment." May I have your permission to do so, Sir?

Mr. PRESIDENT: Will that be of any use?

Rai Bahadur JOGESH CHANDRA SEN: Yes, it will be a material improvement on the clause.

Mr. H. P. V. TOWNEND: I am afraid it would be meaningless, Sir.

Mr. PRESIDENT: I do not think it is necessary. You can speak on Mr. Basu's motion.

Rai Bahadur JOGESH CHANDRA SEN: My idea is to give two chances to the man—one after conviction and one after his release from imprisonment—and that is why I consider the amendment to be necessary.

Mr. PRESIDENT Well, I permit you to have your own way. In a matter of legislation I have always given ample scope to members to put forward their viewpoints.

Rai Bahadur JOGESH CHANDRA SEN: I beg to move that in clause, 4, in proposed section 54B (5), in line 5, after the word "conviction," the word "or" be inserted before the words "release from imprisonment."

The convicted person should be given sufficient chance and opportunity to file his appeal. A convicted person may be lodged in a jail far away from the city and he might not get proper facilities or advice to file his appeal before the proper authority and for this reason he should not lose the opportunity of filing his petition or appeal even after his release. So I propose that he should be given two chances—one, if he finds it convenient, he may immediately file it after his conviction, and the other, if he does not find it convenient to file it immediately after his conviction, he may do so after his release. Both the courses should be open to him and by the slight alteration I have proposed, this object will be fulfilled, and then the section will mean that a convicted person may apply to the Local Government for exemption within two

months after the date of his conviction or release. I think the Hon'ble Minister will have no objection to accepting my amended amendment. If I had not amended like this, then the Hon'ble Minister might have argued that this clause was to the benefit of the convicted person as immediately after his release he may join his post, provided exemption is granted to him. This modest amendment I may say, Sir, would improve the idea behind it.

With these few words I commend my motion.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to support the motion moved by my friend Mr. Basu. I might add that I have no objection to the short-notice amendment moved by Rai Bahadur Jogesh Chandra Sen, though I think that the words "after release from imprisonment" would be better. The difficulty is this, Sir. Any attempt to submit any representation to Government from within the jail is an impossibility. Anyone who is acquainted with jail "matters" —by that I do not mean to say anyone acquainted with jail affairs through imprisonment, but anyone who is acquainted with the administration of jails in the capacity of a non-official visitor or otherwise— knows full well that it is perfectly impossible to secure any legal help within the precincts of the jail or to submit any representation stating all the circumstances of the case of a prisoner. So, I think, Sir, that if any concession is to be granted to anyone, it must be reasonable. A man may be imprisoned for more than two months. He must submit his representation within two months, and if he does not do it, he will lose his appointment. So, Sir, this provision is practically a negation of the elementary principles of justice. I do not think that under these circumstances anyone will submit any representation, and in that view I do not go against the amendment of my friend the Rai Bahadur, and I think that it is not proper that he should be allowed to submit his representation two months after his release. I think it is a very reasonable amendment, and I hope that the Hon'ble Sir Bijoy Prasad will be pleased to accept it. With these few words, Sir, I support the amendment of Mr. Basu.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Dr. NARESH CHANDRA SEN GUPTA: Sir, the motion of Mr. Narendra Kumar Basu is so eminently reasonable that I feel sure that Government will strenuously oppose it! All that he wants is that time should be given to a person who has been convicted to apply for exemption after his release. Until he is released, upon what materials are the Government going to pass the orders of exemption? There is very little to go upon, except the records of the case. In that case, it

would hardly be necessary for him to apply at all, inasmuch as Government might very well ask for the records of each case and pass the necessary orders.

Now, Sir, the answer of the Hon'ble Minister to the last motion was that it was in the interest of the Corporation. The question of the continuance or otherwise of a man in service should not be kept in abeyance longer than is necessary. Well, there is a certain amount of anomaly which makes the whole clause, as it has been drafted and settled in the Select Committee, a piece of confusion, and, surely, that confusion will not be worsened by the extension of time by a few months. Sub-clause (*1*) of clause 4 provides that a person who has been convicted shall forthwith lose his post. So, the post becomes vacant. Then, within two months of that, he makes an application and Government have three months' time after that to make up their minds. Now, after these five months are passed, he may be restored to his former post. But what is going to happen in the meantime? Are the Corporation going to make a fresh appointment to that post or not? The Corporation has got to make an appointment, and on what basis will that be made? It cannot be temporary: it can only be called an absolute indefeasible happening of a particular contingency. The whole thing will remain in abeyance for all these months. Why not a little while longer? It makes no difference whatsoever. Then, again, a question arises from the point of view of the Corporation. Supposing such a person after five months—Government not having passed any orders—gets an automatic exemption. The result of that will be that he will be deemed to have been suspended and his back pay for those five months will have to be paid by the Corporation, and the Corporation will have to pay his *locum tenens* also. All these anomalies require consideration in a far greater detail than has been attempted. I do not think that the circumstances can be much worsened by accepting this amendment which in all fairness to the persons ought to be accepted, because a man who goes to jail cannot effectively petition the Government. The Hon'ble Minister, perhaps, has still some memories left in him of his lawyer days, and he knows that when appeals from judgments are very often made in the High Court, petitions and grounds of appeal are seldom satisfactorily drawn up as the opportunities of the man who had been convicted to get competent legal advice is more or less limited. It must necessarily be so. That being so, if it is really sought to give the person convicted an opportunity of appealing to the Government for exemption, that opportunity can only be given after his release.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to support my friend Rai Bahadur Jogesh Chandra Sen's short-notice amendment which is a very reasonable one. To grant two months' time after release is

not an unreasonable request. I do not find any reason why Government should not accept it. Government should adopt a more reasonable attitude at least to such a reasonable request. I hope we shall not have to hear the stereotyped reply of the Hon'ble Minister that he opposes it on this occasion. Let us pause and see.

Mr. H. P. V. TOWNEND: I would like to deal first with the short-notice amendment of Rai Bahadur Jogesh Chandra Sen. I am afraid, as I suggested previously to you, Sir, there is not very much meaning in the amendment and if either of the two amendments had to be accepted I would prefer that of Mr. Basu. If this one were accepted, its effect would be the same as Mr. Basu's. It would provide that an application for exemption might be made by a man within two months from the date of his release from imprisonment or within two months from after the date of his conviction. There is not much sense in giving a man a choice like this. I do not think that any man would choose that the time should count from the date of his conviction and thus reduce the time-limit allowed to him.

With regard to Mr. Basu's amendment, I suggest that in principle this is covered by the two amendments which have just been disposed of. The proposal is that a man should be allowed, for making an application, two months from the date of his release instead of two months from the date of his conviction. Mr. Basu bases his arguments as the mainstay for allowing an adequate time for making applications. As the minimum period of improvement is for three months, for the period to be allowed would under this proposal be five months instead of two. The House has already rejected an increase to three months and has also rejected an increase to six months. There would be other cases in which a much longer time could be available when a man has been imprisoned for more than three months: but all are covered by the decisions on the last two amendments. The real point is this. This clause deals with a process by which a man can force Government, if he so chooses, to pass an order on his case within a short period. If a man chooses to apply within a given period Government will be compelled to give their decision very quickly. If he does not apply within this period, he cannot ask for an immediate decision; but he is still able to apply; sub-section 4 would be used. Now in the case of anyone who has been guilty of any illegal action against the State, it is very improbable that he would get a favourable decision from Government, whether it were two months after the date of his conviction or two months after the date of his release from imprisonment. As Mr. Basu has pointed out, in any such case clause 4 will apply, but clause 5 is intended chiefly to cover people convicted of offences which though technically coming under this Act are not intended to be operative. It

was mentioned by someone that there are very many menial employees (7,000 in number) who once in a month get an opportunity of drawing their pay——

Mr. NARENDRA KUMAR BASU: On a point of information, Sir, Mr. Townend says that the application of clause 5 is something different from the application of clause 4. I do not understand him.

Mr. H. P. V. TOWNEND: All applications do not come under clause 5, although they all might come under clause 4. Clause 5 refers to the limits within which some applications must be settled but clause 4 does not.

Mr. NARENDRA KUMAR BASU: Secretary does not know his own section.

Mr. H. P. V. TOWNEND: When cases come under clause 4, the real part to which I am referring now in that clause is the phrase "of their own motion." Government of their own motion deal with some cases. I hope matters are now clear to Mr. Basu.

Mr. NARENDRA KUMAR BASU: Not at all clear.

Mr. H. P. V. TOWNEND: The point is if a man has been guilty of an offence which is intended to promote revolution and so on, he would not be likely to be excused from the operation of this section even if he applied three months after his release. He might apply to the Local Government, but it is hardly likely that within that short period Government would be satisfied that he has changed his mind and will no longer indulge in illegal activities. On the other hand, Government of their own motion may at any time set aside the order and thus make it possible for him to be employed again later. Those hard cases to which Mr. Basu referred can be met by clause 4, as the Local Government of their own motion may set aside his disqualification at any time.

Dr. Sen Gupta had some difficulty as regards the position of people who are employed in the Corporation in the place of people who are in jail. He is probably not aware that under the rules which govern these things, it is possible to have a man "acting" in place of one who is on

leave or in any other vacancy of that sort. If a man is suspended for misconduct, another man is taken in to act in his place, but he has no claim to a permanent appointment, so there is no great difficulty. Or Sen Gupta's other point was that the Corporation may have to pay twice. I do not think that this section will prevent the Corporation from drawing up proceedings against a man who has been convicted or from dismissing him independently of this clause. It is only so far as this section is concerned that the man would be treated as if he had been on suspension if he gets an order from the Local Government to that effect. If a man is convicted of any ordinary offence, I imagine the Corporation can dismiss him just as they can dismiss a man who has been guilty of misconduct but not convicted. There would be in practice no difficulty in working the section and there is really no reason why there should be any change in the draft section as it stands. I think the principle is covered by the two amendments already rejected and as the House has already decided that two months from the date of conviction will be an adequate time for an application, I oppose it.

Mr. Narendra Kumar Basu's motion being put, a division was taken with the following results:—

AYES.

Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kishori Mohan.
Fazlullah, Maulvi Mahammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemanta.
Sen, Rai Bahadur Jagesh Chandra.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Armstrong, Mr. W. L.
Ashworth, Mr. C. S.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Burn, Mr. N. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. R. S. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. N.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhanbar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. S. G.
Hossain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Mahammad.
Khan, Khan Bahadur Maulvi Mozzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Momin, Khan Bahadur Mahammad Abdul.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. G. K.
Philpot, Mr. H. S. V.
Prentice, the Hon'ble Sir William.
Qasem, Maulvi Abul.

Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Ray, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Girin Chandra.
Shah, Maulvi Abdul Hamid.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Tawseed, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 15 and Noes 60, the motion was lost.

Rai Bahadur Jogesh Chandra Sen's motion was then put and lost.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to mov that in clause 4, for proposed new section 54BB, the following new sec tion be substituted, namely:—

"54BB. The Local Government may, by notification in the *Calcutt Gazette*, exclude any class of municipal appointments, or any class o municipal officers or servants, specified in the notification, from th operation of all or any of the provisions of section 54A or of section 54B respectively, either wholly or in respect of any class of convictions o sentences so specified."

It is practically the same as in the Bill; only the words "or any class of municipal officers or servants" and the word "respectively" have been added to make the meaning more explicit.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to oppose this motion. I do not think that ever in this province or in any other province the Local Government has shown such lack of confidence in a local body. I wonder if the Hon'ble Minister can find any other instance where the Government have tried in this way to undermine the prestige of a powerful Corporation like the Calcutta Corporation. Sir, in this clause, or, to be more correct, in the clause in its amended form, the Local Government want to take the power in their own hands about regulating the class of persons entitled to municipal appointments as well as the class of municipal servants who are to be excluded from the operation of the different disabilities sought to be introduced by this Bill. The proper course, if I may be permitted to say so, would have been to leave such powers of exemption in the hands of the Corporation of Calcutta, because they can rightly come to a decision as regards the different classes of appointments in filling up which there may be difficulty if the suggestions embodied in the different clauses are strictly enforced. It can hardly be possible for the Local Government to come to a decision in such matters without the co-operation or representation of the Corporation. The Hon'ble Minister has not given any

reason in support of his amendment. I do not know why he wants these powers in his own hands. Is it his intention to favour any particular class of persons? If so, he ought to be frank about it. If it is his intention that these disabilities should apply only to the Hindus of Bengal he ought to say so.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What have the Hindus got to do with it?

Mr. PRESIDENT: Mr. Ray, perhaps, did not expect that this amendment would be reached to-day. (Laughter.) I better give him time to prepare his speech by adjourning the House until 3 p.m., to-morrow. (Renewed laughter.)

Adjournment.

The Council then adjourned till 3 p.m., on Wednesday, the 6th September, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 6th September, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 108 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Central munsifs' courts.

*164. **Babu KHETTER MOHAN RAY:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) how many and in what places central munsifs' courts were established in the province;

(*ii*) whether any such courts were abolished; and

(*iii*) how many are still functioning?

(*b*) How many suits were instituted on the last *tamadi* day at the end of the last Bengali year in the central munsif's court at Comilla?

(*c*) How many of such suits were disposed of up to date?

(*d*) Is it a fact that some of these suits have been fixed for hearing in December, 1933, and in January and February, 1934?

(*e*) Is it a fact that the object of establishing such munsifs' courts in the province was to shorten the duration of litigation?

(*f*) If the answer to (*e*) is in the negative, what were the objects?

(*g*) Is it a fact that the system of central munsifs' courts has the effect of concentration and congestion of works in a single court?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*)(*i*) Central munsifs' courts were established at Burdwan, Comilla, Dacca, Chittagong and Barisal.

(*ii*) The court at Barisal has been abolished.

(*iii*) Four.

(*b*) 14,228.

(*c*) 6,812.

(*d*) No.

(*e*) Yes.

(*f*) Does not arise.

(*g*) No.

Babu KHETTER MOHAN RAY: With reference to (*g*), is it not a fact that before the introduction of the Central Munsif's Court at Comilla suits were filed in six Munsifs' Courts at the Sadar?

The Hon'ble Sir WILLIAM PRENTICE: I should like to have notice.

Maulvi SYED MAJID BAKSH: Have Central Munsifs' Courts been established in other districts?

The Hon'ble Sir WILLIAM PRENTICE: The hon'ble member might read answer (*a*) (*i*).

Babu KHETTER MOHAN RAY: What are the reasons for which the Central Munsif's Court was abolished at Barisal?

The Hon'ble Sir WILLIAM PRENTICE: I am afraid I do not know. I must ask for notice.

Maulvi SYED MAJID BAKSH: What are the reasons for establishing Central Munsifs' Court in those districts only?

The Hon'ble Sir WILLIAM PRENTICE: They were selected for experiment. I think the original suggestion came from the Civil Justices Committee.

Babu KHETTER MOHAN RAY: Do not people feel inconvenience owing to certain courts being abolished?

The Hon'ble Sir WILLIAM PRENTICE: Not that I know of.

Babu KHETTER MOHAN RAY: Have they not petitioned the High Court in the matter?

The Hon'ble Sir WILLIAM PRENTICE: I am afraid I do not know.

Civil court commissioners.

***165. Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing, district by district—

(*i*) the present number of civil court commissioners attached to the courts; and

(*ii*) how many of them are Muslims?

(*b*) What steps, if any, do the Government intend taking to increase the number of Muslim civil court commissioners?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) (*i*) and (*ii*) This information is not available.

(*b*) None, as the appointment of persons to execute commissions is a matter with the discretion of the courts concerned.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Are not registers kept of Civil Courts' Commissioners in the High Court?

The Hon'ble Sir WILLIAM PRENTICE: I have never been a District Judge. So, I cannot really give the information.

Babu HEM CHANDRA ROY CHOUDHURI: Is it not a fact that some technical knowledge is required to execute these commissions?

The Hon'ble Sir WILLIAM PRENTICE: I think it does require some technical qualifications.

Babu HEM CHANDRA ROY CHOUDHURI: Can anybody possessing the necessary technical knowledge execute the commission irrespective of the distinction of caste, creed or colour?

The Hon'ble Sir WILLIAM PRENTICE: So far as I know, anybody can.

Mr. NARENDRA KUMAR BASU: It is not a fact that there is a printed list published by the Government of Bengal of pleaders willing to execute commissions in all the districts of Bengal?

The Hon'ble Sir WILLIAM PRENTICE: I am informed that there is a list published by the High Court.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it not possible for Mussalmans to acquire the technical knowledge necessary for this work?

The Hon'ble Sir WILLIAM PRENTICE: I imagine some of them already have the knowledge.

Remission of rents and cesses in Chittagong.

*166. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) how many applications for remission of revenue and cesses have been submitted by the *talukdars* and *jotedars* to the Collector, Chittagong, from January to March, 1933, complaining against the enhancement of revenue and cesses in the revisional survey; and

(*ii*) what relief, if any, has been given to the applicants?

(*b*) If no relief has yet been given, do the Government contemplate any relief in the matter in the near future?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*)(*i*) About 4,000, of which only 52 were stamped. The bulk of the 4,000 unstamped petitions was in a standardised printed form apparently inspired by the same person.

(*a*) (*ii*) and (*b*) The rate of cess for 1933-34 has been reduced. The question whether any remissions of rent should be granted will be duly considered in *bona fide* individual cases.

Landlord fee establishment of the Collectorates.

*167. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Land Revenue Department be pleased to lay on the table a statement showing, year by year, since April, 1929—

(*i*) what was the total amount realized in transmission fee and process fee in cases of transfer under the amended Bengal Tenancy Act;

(*ii*) what was the amount spent in maintaining the special staff in the Collectorate landlord fee establishment and in transmission of fees and serving of processes;

(*iii*) what was the amount of surplus after meeting the expenditure referred to in (*ii*) above; and

(*iv*) how is the surplus left out of the transmission fee and process fee being dealt with?

(*b*) What is the total number of clerks employed in the landlord fee establishment attached to the Collectorates in Bengal?

(*c*) What is the scale of pay on which the clerks were employed?

(*d*) Is it a fact that the clerks employed in the landlord fee establishment since April, 1929, are still serving on the initial pay on which they were employed?

(*e*) Is the Hon'ble Member aware that the employees in the landlord fee establishment are of the same qualifications as those taken in the general Collectorate departments?

(*f*) Have not the Government formed an idea of the normal income and expenditure of the landlord fee department of the Collectorate by this time, since the Bengal Tenancy (Amendment) Act, 1928, came into force some 3 or 4 years ago?

(*g*) If the answer to (*f*) is in the affirmative, why is it that the posts of clerks of the landlord fee establishment are not being made permanent yet?

(*h*) Are the Government considering the desirability of taking up the case of increment of pay and permanence of posts of the said clerks in the near future?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) A statement (A) is laid on the table.

(*ii*) A statement (B) is laid on the table. This shows the total expenditure including indirect charges for transmission of fees and service of processes. It includes the amount in statement (C) which shows the pay of special staff in the Collectorates.

(*iii*) and (*iv*) There was no surplus except in the first year and the total expenditure for the four years is greater than the receipts.

(*b*) The information is not readily available since the clerks are appointed by Collectors in accordance with a scale which depends on the number of cases to be dealt with.

(*c*) Rupees 35 a month.

(*d*), (*e*) and (*f*) Yes.

(*g*) All appointments are being made on a provisional basis at present, and Government consider it desirable to have more experience before the question of making the staff permanent is decided.

(*h*) No.

Statements referred to in reply to starred question No. 167 (a) (i) and (ii).*

A

(i) TOTAL AMOUNT REALISED ON ACCOUNT OF COST OF TRANSMISSION AND PROCESS FEES IN CASES OF TRANSFERS UNDER THE AMENDED BENGAL TENANCY ACT.

	Cost of transmission.	Process fees.	Total.
	Rs.	Rs.	Rs.
1929-30	5,29,742	2,81,194	8,10,936
1930-31	4,41,149	3,01,387	7,42,536
1931-32	3,81,801	3,07,787	6,89,588
1932-33	3,66,915	3,21,320	6,88,235*
			29,31,295

*Excluding expenditure in Dacca Civil Courts.

B

(ii) EXPENDITURE.

	Rs.
1929-30	7,72,619
1930-31	8,36,217
1931-32	8,24,138
1932-33	8,07,130*
	32,40,104

*Excluding expenditure in Dacca civil courts.

C

PAY OF ESTABLISHMENT IN COLLECTORATE ONLY.

	Rs.
1929-30	40,100
1930-31	66,636
1931-32	76,688
1932-33	76,018

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to (*a*), how long do the Government propose to wait for coming to a final decision?

The Hon'ble Sir PROVASH CHUNDER MITTER: I hope it will not be very long.

Khan Bahadur Maulvi AZIZUL HAQUE: Has the deficit to the extent of Rs. 3,00,000 been met from provincial revenues?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, whatever deficit there may have been, has been met from provincial revenues, but we are investigating the whole question, and I hope to be able to introduce some rearrangement by which not only the percentage will be reduced, but no deficit will occur.

Khan Bahadur Maulvi AZIZUL HAQUE: Are the Government considering the desirability of amending the law by taking a part of the cost of transmission from the amount payable to the landlords?

The Hon'ble Sir PROVASH CHUNDER MITTER: That question does not arise. In any case, I want notice.

Babu HEM CHANDRA ROY CHOUDHURI: Can the Hon'ble Member give us items of indirect charges of transmission of fees?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should like to have notice. I can, however, indicate generally that a considerable portion is represented by postage transmission charges and so on, another portion by charges in the Registration Department and so on. If, however, further details are wanted, I must ask for notice.

Maulvi SYED MAJID BAKSH: Is it not feasible to have these fees transferred from the Sub-Registrar at less cost than formerly?

The Hon'ble Sir PROVASH CHUNDER MITTER: Absolutely infeasible.

Babu HEM CHANDRA ROY CHOUDHURI: What is the proportion of registration fees on the basis of apportionment of the pay of Sub-Registrars?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Presidency General Hospital.

***168. Mr. NARENDRA KUMAR BASU:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government (Medical) Department be pleased to state—

(*i*) what is the total number of beds in the Medical College group of hospitals including cabins; and

(*ii*) how many of them are reserved for European males and females?

(*b*) Is it a fact that the Presidency General Hospital is a Government hospital and is exclusively meant for Europeans?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state what are the reasons?

(*d*) Is the Hon'ble Minister aware that an Indian seriously injured in the Race Course was refused even first aid at the Presidency General Hospital and that the poor man died on the way to the Sambhu Nath Pandit Hospital?

MINISTER in charge of LOCAL SELF-GOVERNMENT (MEDICAL) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*)(*i*) 698.

(*ii*) 171 are reserved for Europeans and persons of European habits.

(*b*) It is a Government hospital: other than European patients are frequently admitted, if their style of living is European.

(*c*) It is convenient for administrative reasons that patients who are not accustomed to a European diet should not be admitted to a hospital designed for Europeans: it would be difficult to supply them with food which they would eat; and there are many other hospitals in Calcutta to which they can go.

(*d*) The only case of this sort that can be traced dates back to August, 1931. On the 8th of that month the assistant medical officer of the Royal Calcutta Turf Club brought an injured Indian jockey to the Presidency General Hospital and requested that first aid be given. After first aid had been given, the patient was sent on to the Sambhu Nath Pandit Hospital but died on the way. If it had been realised that he had been so seriously injured he would certainly have been admitted to the Presidency General Hospital as a temporary measure.

Mr. NARENDRA KUMAR BASU: With reference to (*b*) are Indians, whether Hindu or Muhammadan, admitted into the Presidency General Hospital?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There had been cases of such admissions.

Mr. NARENDRA KUMAR BASU: Can we have the number of such cases for the last ten years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Maulvi SYED MAJID BAKSH: Is it not a fact that the same food is prescribed for all classes of patients in the hospital?

(No reply was given.)

Mr. NARENDRA KUMAR BASU: With reference to (*d*), has there been any case of non-admission of an Indian patient in the Presidency General Hospital?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not under similar circumstances.

Mr. NARENDRA KUMAR BASU: Who was the officer who gave the first aid to this patient?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The staff of the hospital. He was a junior officer who has recently been admitted into the Bengal Medical Service.

Mr. NARENDRA KUMAR BASU: Was that junior officer on duty at that time to receive both Indian and European patients?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Rai Bahadur KESHAB CHANDRA BANERJI: Why did not the medical officer who gave first aid realise from the nature of the injuries that it was a serious case?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was an error of judgment.

Rai Bahadur KESHAB CHANDRA BANERJI: What action have Government taken in the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was a case of rupture of the spleen and the Surgeon-General on inquiry was told that no one could ordinarily detect it.

Rai Bahadur Dr. HARIDHAN DUTT: If 179 beds are to be reserved for the European population of Calcutta, what would be the total number of beds necessary to reserve for other communities in Calcutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not a question, Sir.

Dr. NARESH CHANDRA SEN GUPTA: With reference to (*b*), was there any case in which under similar circumstances an Indian was actually admitted within the last two or three years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, there were.

Medical College group of hospitals.

***169. Mr. NARENDRA KUMAR BASU:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government (Medical) Department be pleased to state—

(*i*) how many senior and junior honorary surgeons and physicians and visiting surgeons and physicians are there in the Medical College group of hospitals;

(*ii*) how many beds are allowed to each of the honorary physicians and surgeons to each hospital separately and how many to Government paid professors of each subject; and

(*iii*) whether there is any register of hospital attendance for the visiting staff?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, what is the average time devoted in the Medical College group of hospitals by honorary and paid senior staff respectively?

(*c*) What is the total number of operations per bed done by the honorary and paid surgeons in the Eden, Eye, Prince of Wales and the old Medical College Hospitals respectively?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*), (*ii*), (*b*) and (*c*) The information is to be found in the statement laid on the Library table. As regards cl. (*c*) the total number of operations performed has been given. Information as to operations performed per bed is not available.

(*a*) (*iii*) Yes.

Mr. NARENDRA KUMAR BASU: According to the statemen the Honorary Ophthalmist Surgeon performed 326 operations durin the year while in that very statement in another column his post shown as vacant. How does the Hon'ble Minister reconcile it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may be misprint. I am not quite sure.

Mr. PRESIDENT: You may then ask for notice.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notic

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Local commissions issued by Pirojpur civil courts.

65. Babu LALIT KUMAR BAL: (*a*) Will the Hon'ble Membe in charge of the Judicial Department be pleased to lay on the table statement showing separately, for each year beginning from January 1931—

(*i*) the number of commissions (excepting those appointed by th District Judge), local inquiries and investigations issued b the munsif in charge of the Pirojpur civil courts;

(*ii*) the number of such commissions, local inquiries and investiga tions (in which appointment of commissioners was made b the munsif himself) given to the caste-Hindu, Muhammada and depressed class pleaders respectively with names an number of commissions, etc., given to each of them;

(*iii*) in how many suits, pleaders were appointed *guardian-ad-litem* by the said munsif from January, 1931 to June, 1933; an

(*iv*) how many caste-Hindu, Muhammadan and depressed cla pleaders were appointed *guardian-ad-litem* in the said sui with names and number in which each of them was appointed?

(*b*) Is it a fact that most of the commissions and appointments *guardian-ad-litem* are given to Babu Haralal Mukherjee and Bab Biraj Mohan Dutta, B.L., Pleaders, Pirojpur Bar?

(*c*) If the answer to (*b*) is in the affirmative, what are the reaso for the preferential treatment?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) The figures are as follows:—

(*i*)

1931	17
1932	46
1933	13

(*ii*)

	Caste Hindu.	Muhammadan.	Depressed class Hindu.
1931	15	2	..
1932	37	9	..
1933	9	4	..

(*iii*)

1931	247
1932	291
1933	112

(*iv*)

	Caste Hindu.	Muhammadan.	Depressed class.
	Cases.	Cases.	Cases.
1931	30—154	9—61	6—32
1932	26—151	10—110	6—30
1933	17—63	10—38	5—11

(*b*) No.

(*c*) This does not arise.

Recruitment of Muhammadans to Educational Services.

66. Maulvi AZIZUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay a statement on the table showing—

(*i*) the total number of officers serving now in the teaching branch in Government High, Normal, and Middle schools of this province in each of the following grades of the Education Service:—

(I) Rs. 250—800 B. E. S.

(II) Rs. 150—250 S. E. S.

(III) Rs. 75—200 S. E. S.

(*ii*) the number of Muhammadan officers under each head?

(*b*) What steps are being taken for securing an adequate number of Muhammadan officers in each of the said grades of the Education Service?

(*c*) What are the rules followed for the recruitment of assistant head-masters in Government High schools and assistant superintendents in Normal schools?

(*d*) How do the Government satisfy themselves that those rules are being actually followed in practice as regards the two superior classes of posts?

(*e*) Are the Government considering the desirability of notifying in the *Calcutta Gazette* all appointments and transfers made in the Subordinate Educational Service as used to be done before?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) A statement is laid on the table.

(*b*) In accordance with rules laid down by Government in 1926, one in every three direct appointments to head-masterships included in the Bengal Educational Service is given to a Moslem, provided that a candidate possessing the requisite qualifications is available; similarly 45 per cent. of direct appointments to assistant head-masterships on Rs. 150—250 and to assistant masterships on Rs. 75—200 in the Subordinate Educational Service are given to Moslems.

(*c*) A panel of qualified teachers is maintained by the Director of Public Instruction, and on the occurrence of a vacancy, permanent or acting, for over six months, the Director selects an officer from this panel. The Director is authorised to appoint not more than one assistant head-master by direct recruitment each year.

(*d*) Government themselves make the appointments in the Bengal Educational Service; as regards the Subordinate Educational Service appointments the Director of Public Instruction submits a return annually.

(*e*) No. The practice was finally discontinued in 1923, as it involved considerable expense without securing any corresponding advantages, and Government do not propose to revive it.

Statement referred to in the reply to unstarred question No. 66 (a) showing the total number of officers serving now in the teaching branch in Government High, Normal and Middle schools, and the number of Muhammadan officers under each head.

Class of schools.	Bengal Educational Service.		Scale Rs. 150—10—250.		Scale Rs. 75—5—200.	
	Total number of officers.	Number of Moslems.	Total number of officers.	Number of Moslems.	Total number of officers.	Number of Moslems.
High schools ..	41	11	42	9	319	126
Normal schools	5	..	5	1	4	2
Middle schools	..	..	..	..	4	4
Total ..	46	11	47	10	327	132

Rai Bahadur KESHAB CHANDRA BANERJI: Are appointments made according to seniority?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: So far as promotions are concerned, they are on the basis of seniority and merit.

Librarians.

67. MUNINDRA DEB RAI MAHASAI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing the name, academic qualifications, nature of professional training in librarianship, grade and date of appointment of the librarians and assistants in various Government College and Teachers' Training School Libraries in the province?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) whether the librarians in the Government service are allowed to attend library training classes and library conferences; and

(*ii*) whether the librarians are joining the next All-India Library Conference to be opened by the Educational Commissioner to the Government of India at Calcutta in September next?

(*c*) If the answer to (*b*) (*ii*) is in the affirmative, how many librarians are joining from *mufassal* colleges?

(*d*) Will the Hon'ble Minister be pleased to state whether books on library economy, including books on classification and cataloguing and circulation work and library journals, are stocked in Government College and School Libraries?

(*e*) If the answer to (*d*) is in the negative, are the Government considering the desirability of issuing instructions to impress upon the librarians the desirability of adopting modern library methods for improving the academic standard?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) A statement is laid on the table. There are no posts of librarians in Teachers' Training Schools.

(*b*) (*i*) No librarians have been deputed to attend library training classes and no requests to attend library conferences have been received.

(*ii*) Circulars have been issued to Government educational institutions drawing their attention to the desirability of their librarians attending the All-India Library Conference to be held at Calcutta in September.

(*c*) Government regret that the information is not available.

(*d*) An inquiry is being made.

(*e*) Does not arise.

Statement of Librarians and Assistant Librarians in Government Colleges referred to in clause (a) of unstarred question No. 67.

Serial No.	Name and posting.	Grade of service and date of appointment.	Educational qualifications of the incumbents.	Special training, if any.
		Rs.		
1	Babu Gokul Nath Dhar, Librarian, Presidency College, Calcutta.	125—5—150—10—200 from 1st July, 1909.	B.A Read up to M.A.	Obtained his first training in Library work in the Imperial Library, then in the Asiatic Society of Bengal where he was a temporary Assistant Librarian for one year.
2	Maulvi A.M.F. Wahhab, Librarian, Calcutta Madrasah.	125—5—150 from 4th April, 1903.	F.A. Failed B.A. ..	Received special training in Library work under the direct supervision of Sir E. Denison Ross.
*3	Babu Upendra Kumar Bose, Librarian, Sanskrit College.	125—5—150 from 21st July, 1902.	Read up to F.A. Passed oral examination in knowledge of English idioms and pronunciation prescribed by Education Department, Bengal.	Nil.

*On leave. Babu Satindra Kumar Mukherji, M.A., officiating.

Serial No.	Name and posting.	Grade of service and date of appointment.	Educational qualifications of the incumbents.	Special training, if any.
		Rs		
†4	Maulvi Abdur Rahman, Librarian, Islamia College.	100—5—150 from 18th September, 1923	M.A. Class II, in both Arabic and Persian Passed Final Madrasah Examination (1st class).	Nil.
5	Babu Nagendra Nath Chaudhuri, Librarian, Krishnagar College.	80—4—120 from 14th August, 1918.	B.A.	Nil.
6	Babu Srigopal Banerji, Librarian, Hooghly College.	80—4—120 from 22nd July, 1920.	B.A.	Nil.
7	Maulvi Abdul Wajed, Librarian, Chittagong College.	80—4—120 from 1st June, 1932.	B.A.	Not known
8	Babu Kalipada Bhattacharji, Librarian, Rajshahi College.	80—4—120 from 1st August, 1926	B.A. (1st class Honours in Sanskrit). M.A., class I, in Sanskrit, Group I. 1st class Kavyatirtha and 2nd class Vyakarantirtha.	Nil
9	Babu Nagendra Nath Sen, Librarian, Bengal Engineering College.	75—5—100 from 20th November, 1912.	Failed Entrance .	Nil.
10	Babu Upendra Chandra Das, Librarian, Dacca Intermediate College.	75—5—100 from 21st July, 1920.	B A . ..	Worked as Librarian for about 6 years in a public Library previous to his present appointment in 1920.
11	Babu Paresh Chandra Mukherji, Librarian, Bethune College	75—5—100 from 2nd July, 1924	B A.	Nil.
‡12	Maulvi Muhammad Sanaullah, Library Clerk, Dacca Islamic Intermediate College.	75—5—100 from 2nd January, 1929.	Passed Honours course of Dacca University in Islamic Studies, but failed to obtain the degree.	Nil
13	Maulvi Syed Ali Akhtar, Assistant Librarian, Presidency College.	40—40—45—5/2—70 (efficiency bar)—5/2 100 from 29th September, 1915.	Read up to I.A. Knows Persian and Urdu and also Typewriting.	Specially trained in the Imperial Library for 6 months in 1925 under Mr. Chapman.
14	Babu Paresh Nath Pal, Assistant Librarian, Presidency College.	40—100 from 4th May, 1928.	B.Sc.	Nil, except for the training received from the present Librarian of Presidency College.
15	Maulvi Mv. Ismail Hossain, Assistant Librarian, Presidency College.	40—100 from 30th January, 1930.	B.A.	Ditto.
16	Babu Niradanga Bhattacharji, Assistant Librarian, Sanskrit College.	40—85 from 20th July, 1929.	B.A. Passed the first Examination in Kavya and Veda.	Nil.
17	Babu Matilal Chaudhuri, Assistant Librarian, Rajshahi College.	35—80 from 7th January, 1915.	Read up to I.A. ..	Nil.

†On deputation as Lecturer, Islamic Intermediate College, Dacca, Maulvi A. F. M. Abdul Majid Rashid, M.A., in Arabic (3rd class), Aligarh University, officiating.

‡Officiating from 2nd January, 1929.

Serial No.	Name and posting.	Grade of service and date of appointment.	Educational qualifications of the incumbents.	Special training, if any.
		Rs.		
18	Babu Sushil Kumar Nundy, Librarian and Draftsman, Ahsanullah School of Engineering, Dacca.	60 (fixed) from 7th August, 1924 (but a scale of Rs. 60—5/2—100 has been administratively sanctioned by Government).	Passed Lower Subordinate Examination in the higher division and Upper Subordinate Examination in the 1st division of the Overseer Examination Board.	Nil.
19	Maulvi Muhammad Nural Huda Khan, Assistant Clerk and Librarian, David Hare Training College.	35—80 from 26th July, 1928.	I.A. in Islamic Studies.	Not known.

MUNINDRA DEB RAI MAHASAI: Do not Government think it desirable to have trained Librarians in the Teachers' Training Schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, it is not necessary.

MUNINDRA DEB RAI MAHASAI: Do not the Government think it desirable that Librarians should have training in modern library science?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have already answered this question before.

Babu SATYA KINKAR SAHANA: Have the Government Librarians been informed that if they intend to attend the Library Conference, their request would be entertained?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: We have already informed them that they can attend.

Motor boat "Kandari" plying between Narail and Nowpara.

68. Mr. C. R. SUMNER: (*a*) Is the Hon'ble Member in charge of the Marine Department aware that a motor boat named "Kandari" plying between Narail and Nowpara in Bengal obtained a certificate permitting 40 passengers for short journeys by daylight, and 30 passengers if she runs up to 22 hours?

(*b*) Is it a fact that the "Kandari" on the 26th June, 1933, had 72 passengers on board at Narail?

(*c*) Is it a fact that on arrival at Rupgunge at 2-30 p.m. on that day it engaged a country boat and loaded 23 passengers in the boat which was then towed by the "Kandari"?

(*d*) Will the Hon'ble Member be pleased to state what provisions are there for inspection and prosecution for the carrying of passengers in excess of the number permitted by the certificate?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*), (*b*) and (*c*) Government have no information, but inquiries are being made.

(*d*) The enforcement of the law is entrusted to the district authorities.

Registrar, Joint Stock Companies.

69. Khan Bahadur MUHAMMAD ABDUL MOMIN: (*a*) Will the Hon'ble Member in charge of the Commerce Department be pleased to state—

(*i*) the names and qualifications of the candidates interviewed by the Bengal Selection Board in connection with the recent appointment to the post of Registrar of Joint Stock Companies; and

(*ii*) the basis on which the fitness of the candidates was judged?

(*b*) Did the Selection Board examine the candidates to judge their fitness for the post?

(*c*) Will the Hon'ble Member be pleased to lay on the table a copy of the report of the Selection Board?

(*d*) Is it a fact that a sub-committee was appointed to interview the candidates?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Member be pleased to state the names of the members of the sub-committee?

(*f*) Will the Hon'ble Member be pleased to state whether the Selection Board made independent inquiries as to the professional status, experience and knowledge of the candidates?

(*g*) If the answer to (*f*) is in the negative, to what extent did the Selection Board rely on the report of the sub-committee?

(*h*) Will the Hon'ble Member be pleased to state the difference between the status of a chartered accountant, an incorporated accountant and a G. D. A.?

(*i*) Is not a G. D. A. much inferior in academic qualification to a chartered accountant?

(*j*) What is the qualification of the gentleman recently appointed to the post of Registrar of Joint Stock Companies?

(*k*) Will the Hon'ble Member be pleased to state whether there was any Muhammadan among the candidates for the post interviewed by the Selection Board?

(*l*) If the answer to (*k*) is in the affirmative—

(*i*) was he not fully qualified for appointment to the post;

(*ii*) was his academic qualification superior to that of the gentleman appointed to the post; and

(*iii*) why was the superior claim of a Muhammadan not entertained in accordance with the declared policy of Government in the matter of Muslim appointment?

MEMBER in charge of COMMERCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*)(*i*) The names are:—

Mr. N. K. Majumdar.

Mr. S. O. Allridge.

Mr. S. Zaman.

A statement of qualifications is laid on the table.

(*a*) (*ii*), (*b*), (*c*), (*f*) and (*g*) Government are not prepared to give this information, as the proceedings of the Board are confidential.

(*d*) A sub-committee was appointed to make a preliminary selection.

(*e*) (1) Mr. H. J. Twynam, I.C.S., Officiating Commissioner, Presidency Division, and member of the Selection Board. (2) Mr. R. N. Gilchrist, Joint Secretary to Government, Commerce Department. (3) Mr. H. H. Burn, M.L.C., and (4) Mr. M. N. Mukherji, members of the Indian Accountancy Board.

(*h*) and (*i*) The main qualification prescribed for the post was that candidates should possess such qualifications as render them eligible for enrolment on the Register of Accountants, as laid down in the Indian Companies (Amendment) Act, 1930, and in the Auditors Certificates Rules, 1932. All the three qualifications mentioned entitle persons to be enrolled (under certain conditions) on the Register of Accountants.

(*j*) *Vide* the statement laid on the table.

(*k*) Yes.

(*l*) (*i*) He possessed the necessary qualifications

(*ii*) *Vide* the statement laid on the table.

(*iii*) The most suitable candidate was appointed. The question of communal proportions does not arise when there is only one appointment.

Statement referred to in the reply to clause (a) (i) of unstarred question No. 69.

I. QUALIFICATIONS OF THE CANDIDATE APPOINTED TO THE POST OF REGISTRAR OF JOINT STOCK COMPANIES, BENGAL.

Mr. Narendra Kumar Majumdar.

Academic and professional—

(*a*) Passed M.A. in Pure Mathematics, First in Class I, Gold Medalist.

(*b*) Passed Part I and Section A of Part II of the Examinations of the Institute of Actuaries, London.

(*c*) Passed G.D.A. Examination in 1921.

(*d*) Granted Auditor's certificate by Government in 1920.

(*e*) Enrolled on the Register of Accountants (Government of India).

Experience—

(*a*) Lecturer, Post-graduate Classes, Calcutta University—

(1) Pure Mathematics, 1913.

(2) Ancient Indian Astronomy, and Mathematics, 1918.

(3) Accountancy and Auditing in Commerce, 1922-33.

(*b*) Examiner and Paper-Setter of the Calcutta University in M.A., M.Sc., B.A., B.Sc., B.Com., and other examinations in Mathematics, Accountancy and Auditing since 1914.

(*c*) Lecturer from 1924-31, in Accountancy and Auditing, G.D.A. Classes, Government Commercial Institute, Calcutta.

(*d*) In continuous practice as an Auditor from 1920.

II. QUALIFICATIONS OF OTHER CANDIDATES SELECTED.

Mr. S. O. Alltridge.

Professional—

An Incorporated Accountant.

Experience—

Served (1) as an Assistant for seven years to Messrs. Lovelock and Lewes, Chartered Accountants, Calcutta, (2) as Accountant to Messrs. Cooper Allen and Company, Cawnpore.

For some time Lecturer in Accountancy and Auditing at the Government Commercial Institute, Calcutta.

Mr. S. Zaman.

Academic and professional—

(*a*) B.A. (Economics), Calcutta, in 1921.

(*b*) B.Com. (London), 1925.

(*c*) Served articles for five years with Messrs. Joseph Stones and Company, Chartered Accountants, in London.

(*d*) Passed the Final Examination of the Institute of Chartered Accountants, London, in 1927.

Experience—

(*a*) Practised under the firm name of S. Zaman and Company, Chartered Accountants, in Calcutta and Rangoon, for about four years.

(*b*) Lecturer, Government of Burma Accountancy Institute, Rangoon, for 8 months from August, 1930, to March, 1931.

(*c*) Examiner in various commercial subjects in Calcutta University, 1931-32.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to my question (*i*), has not a chartered accountant superior qualifications than a G.D.A.?

The Hon'ble Mr. J. A. WOODHEAD: That is a question of opinion.

Mr. P. N. GUHA: Could the Hon'ble Member give us an idea of the age of Mr. Mazumdar and Mr. Zaman, respectively?

The Hon'ble Mr. J. A. WOODHEAD: I am not certain. But I think Mr. Mazumdar is several years' older than Mr. Zaman.

Mr. P. N. GUHA: Did Mr. Zaman ever occupy any responsible position anywhere?

The Hon'ble Mr. J. A. WOODHEAD: The information will be found in the statement. Mr. Zaman practised under the firm name of S. Zaman and Company, Chartered Accountants, in Calcutta and Rangoon for about four years; he was a Lecturer in the Government of Burma Accountancy Institute, Rangoon, for 8 months and he was Examiner in various commercial subjects in Calcutta University in 1931-32. That is the only information I possess.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to answer (*iii*), if question of communal proportions does not arise, is a Moslem debarred from appointment?

The Hon'ble Mr. J. A. WOODHEAD: Certainly not. Mr. Zaman's name was in the short list, *vide* my reply to (*a*)(*i*).

Office of the Registrar, Joint Stock Companies.

70. Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member in charge of the Commerce Department be pleased to lay on the table a statement showing the number of—

(*i*) gazetted officers;

(*ii*) non-gazetted officers and ministerial officers; and

(*iii*) menials

at present employed in the office of Registrar of Joint Stock Companies, Bengal, with the percentage of Mussalmans under each category?

The Hon'ble Mr. J. A. WOODHEAD: (*i*), (*ii*) and (*iii*) A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 70, showing the number of gazetted officers, non-gazetted officers and ministerial officers, and menials in the office of the Registrar of Joint Stock Companies, Bengal.

	Total number.	Percentage of Muhammadans.
(i) Gazetted officers	2	Nil.
(ii) Non-gazetted officers and ministerial officers (including 4 temporary hands).	15	7
(iii) Menials	5	20

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Calcutta Municipal (Amendment) Bill, 1933.

Clause 4.

The discussion on clause 4 was resumed. Mr. Shanti Shekhareswar Ray continued with his speech of the previous day.

Mr. SHANTI SHEKHARESWAR RAY: Sir, as I was saying yesterday, the Hon'ble Minister has given us no reasons as to why he wants that power. We have already given the Local Government the power to sanction the appointment of individuals who may be otherwise disqualified according to the provisions of this Bill. The only reason that appears to me is the unmerited suspicion on the part of the Government of the fairness and sense of duty on the part of the Corporation of Calcutta. From the materials placed before us, we think that this attitude can in no way be justified. In the past, so far as appointments are concerned, the Corporation of Calcutta never defied Government in any matter, and so there can be no justification for interfering with the power of a local body like the Corporation of Calcutta in a matter of this kind. If you go on interfering in such small matters, then what will happen is this: what you give with one hand you take away with the other. You cannot instil a sense of responsibility by such restrictions which you want to impose on the Corporation of Calcutta. I hope that unless Government can advance any reasons in support of their motion, the House will not give them such wide powers that may cause only irritation and nothing else.

Mr. NARENDRA KUMAR BASU: Sir, in rising to oppose this amendment, I have firstly to repeat what I have already said several times in this House that speaking for myself I am not willing to give more powers, more blank powers to the executive than is strictly necessary. Then with regard to the motion moved by the Hon'ble Minister, speaking for myself I do not profess to understand the meaning of it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I suggest that instead of wasting the time of the Council, he can move his own amendment in this connection.

Mr. NARENDRA KUMAR BASU: Sir, I do protest against such a remark from even the Hon'ble Minister. He has no business to say that I am wasting the time of the Council. I am certainly within my

rights to oppose any silly amendment, and whether I am wasting the time of the Council is not a matter for the Government or for the Hon'ble Minister, but for the Chair to decide. I say that the amendment is one of the silliest amendments you can think of. I do not know who is responsible for this amendment, nor whether the drafting was done by the Hon'ble Minister or Mr. Townend or by Sir Bijoy Prasad Singh Roy. I do not understand what the Local Government mean by saying that the Local Government may, by notification in the *Calcutta Gazette*, exclude any class of municipal officers or servants from the operation of all or any of the provisions of certain sections of the Act. I submit it is neither English nor common sense nor even local self-government logic. I can understand excluding any class of municipal appointments. But what does this mean? I fail to understand the meaning of it unless it is the wish of the Government to exclude certain officers by reason of their caste or creed. I ask the House to reject the amendment with contempt.

Mr. H. P. V. TOWNEND: Two points have been urged against this amendment. The first is by Mr. Ray that we can trust the Corporation to make their own appointments. That is an argument against the whole principle of the Bill. It is not an argument against this individual clause. The object of this clause is to meet certain difficulties to which attention was drawn by certain members of the Select Committee. They said that the menials when they get their pay enjoy themselves in the way to be expected of menials, that they may get themselves involved in cases leading to their imprisonment, and that also it would be very awkward in making appointments of menials if they had to give a lot of details in writing, and it might embarrass the Corporation. The House will remember that the Corporation refused to assist the Select Committee with advice as to practical difficulties that might arise in working these clauses, but the Select Committee did its best to anticipate any such difficulties and to meet them. This clause has been deliberately inserted with this specific purpose.

I do not know really whether I need refer to Mr. Basu's remarks about drafting. But I may say that the drafting is neither by me nor by the Hon'ble Minister. It was done by the department concerned. I understand, however, that the objection to the clause as it stands in the Bill is with regard to the word "appointments" which really covers the act of appointing a person and might be held not to cover individual officers or servants; that is why this change has been made.

Dr. NARESH CHANDRA SEN GUPTA: Sir, the explanation of Mr. Townend makes me more puzzled than ever. By adding "any class of municipal officers or servants," does he mean all individual

cases of officers and menials? Then, again, he thinks that municipal appointments would not cover the case of dismissal under one of the previous clauses. Therefore, if any class of municipal appointments are excluded, the dismissals would not be covered, and so this clause has been brought in to say that the Local Government may exclude any class of municipal officers or servants. I could not exactly follow what he meant.

Mr. H. P. V. TOWNEND: May I explain that I did not mention anything about dismissal?

Dr. NARESH CHANDRA SEN GUPTA: Then I must have heard him wrongly. So far as the meaning to be attached to the words "any class of municipal officers or servants" is concerned, we are not wiser than we were before. Mr. Townend has referred to the case, for instance, of menial servants who may be generally excluded by an order of the Government. But I do not see why they cannot be excluded under this clause as it stands. I am saying these things in all innocence without any motive whatsoever. I do not understand what the object or purpose of this amendment is.

Mr. SYAMAPROSAD MOOKERJEE: Sir, I do not want to make a speech on the merits of this amendment. Mr. Townend should, however, explain to the House what the difference is between the clause as it stands in the Bill and the amendment as proposed by Government. We find in the Select Committee's report that it is proposed to exclude any class of municipal appointments which may be specified in the notification. When we come to the amendment we find the wording is the same except the addition of a few words, *viz.*, "or any class of municipal officers and servants." It is difficult for us to imagine that there may be any class of municipal officers or servants who do not hold municipal appointments. What is the necessity of the addition of these words, unless as Mr. Basu states, it is to exempt certain officers by reason of their caste, creed or colour?

Mr. H. P. V. TOWNEND: I am extremely sorry not to have made this point clear. I am not a lawyer, and I myself thought that the wording was all right as it stood in the draft Bill. In fact, I read it in the same sense as my friends opposite. But the fact is that the word "appointments" was inserted primarily with reference to section 54A which lays down that no person shall be appointed as a municipal officer and so on; the idea was that the word "appointments" would refer to the act of appointing a person as municipal officer or servant. Later, the clause was made to refer also to section 54B which deals with people who are already in the employment of the Corporation.

We are advised that if there is a question of a new appointment, the words "municipal appointments" would come in, and if there is a question of dealing with a class of people who are already in the employ, the other words "class of municipal officers or servants" would apply."

Dr. NARESH CHANDRA SEN GUPTA: Sir, Mr. Townend explained the clause by referring to dismissal from service as provided in section 54B. But when I referred to it, he wanted to correct me by saying that it did not refer to dismissal from service.

Mr. H. P. V. TOWNEND: I did not mention "dismissal." What I said was that the clause also referred to section 54B.

The Hon'ble Sir Bijoy Prasad Singh Roy's motion was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Chawdhory, Haji Badi Ahmed.
Cohen, Mr. D. J.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. N. G. A.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forgesen, Mr. R. H.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. S. S.
Hosain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunde Behary.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray Chawdhury, Babu Satish Chandra.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satleswar Singh.
Roy, Mr. Saret Kumar.
Roy, Mr. S. N.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sen, Rai Bahadur Girin Chandra.
Sumner, Mr. C. R.
Townend, Mr. H. F. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Choudhary, Maulvi Nurul Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.

Mookerjee, Mr. Syamaprosad.
Nag, Babu Suk Lal.
Poddar, Seth Hanuman Prosad.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hemai.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

The Ayes being 57 and the Noes 19, the motion was carried.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, proposed section 54(BB) as substituted be omitted.

My submission is that this clause proposes to give the executive powers which the executive ought not to have. My reasons for saying so I have repeated very often in this House, and I submit that this is even more important than the other provisions in which power has been given to the Local Government because, as it is now substituted, the section gives Government not only discretion but wide and absolute powers to the Local Self-Government Department and the Local Government, and I am sure that after the exhibition that we have seen here the Local Government does not seem fit to be entrusted with this power.

Reverend B. A. NAG: I rise on a point of order and it is this. The amendment just now moved by Mr. Basu was not before the House when the Hon'ble Minister's amendment was carried. So does it not constitute a direct negative of the amendment that has been carried now?

Mr. PRESIDENT: What was the motion you refer to? Was it not for substitution of a new section in the place of the old one? So far as substitution is concerned, the House has no doubt pronounced its opinion and that opinion is definite and unalterable. The present motion is for total omission of that section. Until the whole clause of which the section is a part has been accepted by the House it is certainly assailable.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. I see no justification for distrusting the executive. Sir, the executive have got to be trusted. Moreover, the executive in this case is none other than the Minister responsible to this House; therefore, I oppose this amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. P. BANERJI: I beg to move that in clause 4, in proposed section 54(C), in lines 2 to 7, for the words beginning with "an offence" and ending with "said Chapters," the words "secret and violent revolution" be substituted.

In moving this motion I want to point out that offence against the State should mean only secret and violent revolution and other offences that are included in Chapters VI and VII of the Indian Penal Code should be deleted. But my object in doing so is very plain and simple. In those Chapters even those offences which do not involve either violence or moral turpitude should even find place. Take the case of section 124(A), Indian Penal Code, which deals with sedition. Many of our countrymen—men of ability—have been convicted of sedition. Sir, I shall narrate here one of the incidents where a young man was present at a meeting and delivered a speech. The speech was very peaceful and did not amount to sedition, but in that meeting another person sang a song, a slogan, that was considered to be seditious and for that reason, because a certain person read a slogan what was considered to be seditious, the young man referred to, who was absolutely innocent was sent to jail for his speech. Because a certain person in that meeting shouted a slogan, the meeting was considered to be seditious, and those persons who were absolutely innocent were sent to jail. In this way, when a number of innocent persons are punished for the offence of one single person, we lose our faith in British justice. I do not know, Sir, that anywhere in the world, for the offence of one particular person, another person has been punished. Therefore, if you want to debar any people from securing Corporation employment, I think those persons who take part in secret and violent revolution should be penalised. So far as open revolution is concerned, the question does not arise——

Mr. PRESIDENT: You need not labour those points.

Mr. P. BANERJI: Therefore, Sir, I say that an offence against the State should only mean secret and violent revolution and nothing else.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I oppose this amendment. No new argument has been advanced, and I have already stated my arguments against them long before.

The motion was put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 4, in proposed section 54C, in line 2, for the words "offence against the State," the words "offence involving violence" be substituted.

I need not waste the time of the House by merely repeating the arguments that I have adduced in moving similar other amendments. I formally move my amendment.

Mr. H. P. V. TOWNEND: I formally oppose this amendment.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 4 as amended stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: I do not think I should put clause 5 at this stage, although no amendment has been tabled in respect thereof. I propose to put off its consideration as a section which will be reached later is involved in the clause.

Clause 6.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With regard to clause 6, I propose to bring in an amendment with your permission.

Mr. NARENDRA KUMAR BASU: So far as clause 6 is concerned, may I ask for your ruling, Sir, whether it is not *ultra vires* of the Select Committee to send up this clause in the way it has done? Sir, as you are aware, when the Bill was introduced, in the Bill, as introduced, the marginal note was "grant-in-aid for primary education" and it was proposed to be a clause ancillary to clause 91 of the present Act which reads as follows:—

"The Corporation shall spend annually a sum of not less than Rs. 1 lakh for the purpose of promoting primary education among boys between the ages of 6 and 12 years and girls between the ages of 6 and 10 years residing in Calcutta."

The marginal note is "expenditure on primary education," and the Bill, as it was accepted by the House, was that there ought to be a new section after section 91, marked 91A, regarding grants-in-aid for primary education, and that was the principle, Sir, which was accepted by the House, and the Bill was sent to the Select Committee. Now the Select Committee in their wisdom have extended considerably the scope of this clause, and instead of affecting the grants made for primary education alone, they have brought in all grants made by the Corporation. You will be pleased to see "notwithstanding anything contained in this Act, no grant shall knowingly be made by the Corporation without the previous sanction of the Local Government to any institution which employs any person" and so forth. Sir, the allocation of the section which refers to the existing Act has also been changed and made 88A. My point is whether it is within the powers of the Select Committee, and whether it was not going beyond the principle of the Bill as it was referred to the Select Committee.

Mr. PRESIDENT: I think you understand my position in the matter. The Chair is always anxious to safeguard the rights and jurisdiction of the Chairman of the Select Committee. I am naturally reluctant to say or do anything which may vitiate the Committee procedure. Of course, I do not mean that, in spite of the fact that the Select Committee has already reported, I cannot give any ruling with regard to any matter affecting the Bill. I must recognise the fact that the Bill has passed the Committee stage and has come back to the House. I should like to know, before I make any pronouncement on the subject, if you raised this point before the Select Committee.

Mr. NARENDRA KUMAR BASU: Yes, I did, and mentioned it in my note of dissent.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As Chairman of the Select Committee, I may say that this point was very carefully considered by the Select Committee. As Chairman of the Select Committee, this particular objection was overruled by me. The ground was that the principle underlying the provision was exactly the same, *viz.*, that the Corporation should not make grants to institutions which would employ persons suffering from the disabilities mentioned in clause 4 of the Bill. That is the main principle, and that principle has been extended from educational institutions to other institutions. On that ground, the objection was overruled.

(Here followed a discussion on the conclusion of which the Hon'ble President gave the following ruling):—

Mr. PRESIDENT: If you make a correct analysis of the Bill you will find that the principles underlying it are:—

(1) the provision for certain restrictions in regard to appointments that are made by the Corporation, and

(2) the introduction of a "surcharge" in the matter of illegal expenditure by the Corporation.

Mr. Basu agreed with me that these are the two leading and primary fundamentals. He also agreed that the Select Committee had full powers even to nullify any provision of the Bill and introduce new clauses or sections without reversing the principles of the Bill. I hold that the amended clause under review does not introduce any new principle or matters which are contrary to the principles of the Bill. The new matters are details included in one of the original principle. But, my considered opinion is that the Select Committee was allowed

to carry an amendment to the original clause which was certainly beyond the scope of the clause, which is not permissible. They should have incorporated the new matters in a new and supplementary clause, or should have omitted the old clause altogether and introduced a new clause to include in it all the old and new matters. But as these new matters were not destructive of any principle of the Bill, it will do if we simply regularize the method which was adopted.

Mr. Basu cannot have any grievance, because he has given notice of an amendment by which he can have the new matters deleted. Only for the sake of correct procedure I will ask the Hon'ble Minister to bring up the original clause as it was when it was referred to the Select Committee and the new details in the shape of a new clause, so that the House could accept or reject any or both. That cannot take the House by surprise as those matters are already in the report of the Select Committee.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I have a few minutes' time, Sir?

I beg to move that this clause be omitted and the same wording be introduced as a new clause, not by way of amendment of the original Bill clause but as a new clause.

Mr. PRESIDENT: The old clause was not omitted by the Select Committee. Then why not have a supplementary clause for the new details? The only objection that may be urged is with reference to the word "knowingly." If you add that word to both the clauses there will be no difficulty at all.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I have a little time, Sir, to consider this and in the meantime we may pass on to other clauses, because this includes educational institutions as well and they will be overlapping.

Mr. PRESIDENT: I will give you time to consider the matter. In the meantime we may take clause 7.

Clause 7.

Mr. P. BANERJI: I beg to move that clause 7 be omitted.

In the original clause 120, no power was given to the Local Government and I do not know why now Government wants to take the power

of making rules. The other day Mr. Thompson, the leader of the European group, who is not here now, said that we should not entrust the Government with so much power in all cases. I think if he had been here to-day he would have supported me. Sir, I must submit that the Corporation, so far as accounts and other matters are concerned, are doing their work properly. Every point raised by the Hon'ble Minister for finding fault with certain accounts, audit, etc., has been met by responsible members of the Corporation and also by us on this side of the House, and no convincing argument was ever put forward by the Hon'ble Minister. Therefore, Sir, I consider that Government should not be given any more power and, with these words, I move that clause 7 be omitted.

Dr. NARESH CHANDRA SEN GUPTA: In supporting the motion I wish to point out to the House that section 120 provides that the Corporation may keep accounts in such manner as they may think fit. That is sought to be amended by introducing in this section 120 "subject to any rules made by the Local Government in this behalf"; that is to say, the Local Government may prescribe now the manner in which the Corporation shall keep accounts. That, I should say, goes in a way against the principle of the Act as it was passed, and, what is the justification, what is the reason? We have been told in this House a great deal about the various misdeeds of the Corporation, but it has not been explained to the House by the Minister or anybody else that the Corporation accounts are not properly kept, or that the Corporation have failed in its duty of keeping proper accounts. All that has been alleged is that the Corporation has misspent money or spent money without authority. That is a proposition on which, in spite of all that has been said, after careful examination, I happen to be still unsatisfied. But that is not a matter, however, which we can deal with on this motion. But having regard to the fact that the Corporation has not yet been charged with any default or negligence or misdeed in connection with the manner of their keeping accounts, which by the way are kept by an accountant who was himself a Government accounts officer, I do not see the necessity of prescribing that the accounts should be kept according to the rules prescribed by the Local Government. In any case, no case has been made out for that.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment. It is purely a precautionary measure which may be necessary to give effect to the provisions for surcharge. If the Corporation do not keep their accounts in a proper manner to evade surcharge, then and then only Government would prescribe what rules should be observed. That is why this clause has been put in.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bhattacharjee, Mr. B. C.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kisheri Mohan.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hemai.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. S.
Bahsh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bannerjee, Babu Jitendralal.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. H. G. A.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ferguson, Mr. R. N.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, at Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. B. P.
Hooper, Mr. S. S.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Karim, Maulvi Abdul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Maguire, Mr. L. T.
Millar, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Miftar, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Kavarand B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Podder, Mr. Ananda Mahan.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mahan.
Ray, Babu Nagendra Narayan.
Ray Chawdhury, Mr. K. C.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satiseswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy Chaudhuri, Raja Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rohati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Giris Chandra.
Shah, Maulvi Abdul Hamid.
Steven, Mr. J. W. R.
Sumner, Mr. C. R.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 18 and the Noes 76 the motion was lost.

The motion that clause 7 stand part of the Bill was put and agreed to.

Clause 8.

Rai Bahadur JOGESH CHANDRA SEN: I beg to move that in clause 8(*2*), in lines 2 and 3, the words "or before any officer subordinate to them" be omitted.

Sir, it is purely a question for the Corporation. Enough has been done to keep the Corporation under control, and what is the necessity of asking them to go down on their knees before any officer subordinate to the auditors? I think nobody will be seriously affected if these words are omitted, and at the same time it will save the prestige of the Corporation.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I think my friend has a misconception of the whole thing. The Act says the auditors may do something. These auditors may not have the time to hear all who appear before them. It may be necessary for the auditors to appoint certain officers for the purpose. It is not a question of prestige.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid the mover has moved this amendment under a misapprehension. The clause follows the principle laid down in section 121 of the Act, namely, "the auditor or any officer." The auditors in this case are the Accountant-General of Bengal and the Examiner of Local Accounts. They do not do audit themselves, but it is done by an officer under them. It is not a question of prestige.

Rai Bahadur Jogesh Chandra Sen's motion was then put and lost.

The motion that clause 8 stand part of the Bill was put and agreed to.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Mr. P. BANERJI: Will not the Hon'ble Minister move his motion about clause 6 at this stage?

Mr. PRESIDENT: Not now.

Clause 9.

Mr. P. BANERJI: I beg to move that clause 9 be omitted.

Sir, this clause provides that any person who neglects or refuses to comply with the summons or requisition made under section 121 shall be punished with fine which may extend to Rs. 200 in respect of each item included in the summons or requisition. In my opinion, Sir, a fine of Rs. 200 on each item is very exorbitant——

Rai Bahadur Dr. HARIDHAN DUTT: A lesser fine may also be charged.

Mr. P. BANERJI: The Rai Bahadur may rest assured that in most cases the maximum will be charged. As I have said many times, it was absolutely out of vindictiveness that this Bill has been brought before this House, and when a punishment has got to be given, you will find that it is only the maximum punishment that will be awarded on every occasion. With these few words I suggest the deletion of this clause.

Dr. NARESH CHANDRA SEN GUPTA: Mr. President, Sir, in support of this amendment I wish to ask only one question. The Calcutta Municipal Act was passed in 1923 and since then section 121 providing for these summonses has been in operation. Under this section the auditors may, by written summons, require the production of any document which they may consider necessary, require persons to appear before them and authenticate such documents. It will be interesting to hear whether in all these years there has been any occasion in which the absence of this penal provision has made it difficult or impossible for the auditors to go on with their work.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment. In reply to the question of Dr. Naresh Chandra Sen Gupta I may say that up till now there was no such case when the Corporation did not fulfil its obligations, but with the introduction of a provision about surcharge in this Act, the Corporation may well refuse to give proper facilities to the auditors, and it is just to stop any such contingency that this penal clause is considered necessary. That is the reason why I oppose the amendment.

Mr. NARENDRA KUMAR BASU: I rise to support this motion, and I would only point out in reply to the reasons which have just been adduced by the Hon'ble Minister that, if anything, they are reasons rather for not adding that section at all. If the Corporation has without such penal provision dangling over their heads not neglected to comply with the summons or requisition——

Rai Bahadur Dr. HARIDHAN DUTT: Is there such a provision in the present Act?

Mr. NARENDRA KUMAR BASU: Well, Rai Bahadur Dr. Haridhan Dutt who has been a Chief Executive Officer under the present Act ought to have known better. There is such a clause. However, as the Hon'ble Minister has just now pointed out, there has

been no occasion when the Corporation refused or neglected to comply with the summons, without any penal clause for surcharge. Therefore, it is all the more reason that, with this penal surcharge dangling over their heads, such summonses and requisitions will be complied with by them. Therefore, the insertion of this section is wholly unnecessary.

Mr. P. Banerji's motion being put, a division was taken with the following result:—

AYES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Fawcus, Mr. L. R.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Rout, Babu Hemal.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

NOES.

Ashworth, Mr. C. S.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bannerjee, Babu Jitendralal.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Rasi Ahmed.
Cohen, Mr. D. J.
Dain, Mr. R. R.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. R. G. A.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Fergusson, Mr. R. N.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. R.
Gladding, Mr. D.
Guha, Babu Pratulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hagg, Mr. G. P.
Hossain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mallick, Mr. Mahendra Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahaman, Mr. A. F. M. Abdar-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, the Hon'ble Sir Bijay Prasad Singh.
Ray, Raja Harihansa.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. R. R.
Sen, Rai Bahadur Girin Chandra.
Steven, Mr. J. W. H.
Sumner, Mr. C. H.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

Ayes being 13 and Noes 69, the motion was lost.

The question that clause 9 form part of the Bill was then put and agreed to.

Clause 10.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. I think clause 10 should come after clause 11 because that is really a consequential clause to clause 11.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Is that your ruling, Sir, that it is consequential to clause 11?

Mr. PRESIDENT: I have given no ruling. Do you object to it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think it is not a consequential clause and I do object.

Mr. PRESIDENT: I do not want to disturb the present arrangement. I shall take it now.

Mr. P. BANERJI: I beg to move that clause 10 be omitted.

I consider this clause is absolutely absurd as it says "the names of persons who in their opinion are directly or indirectly responsible for such loss or waste." It would have been in the fitness of things if you could hold such persons responsible who are concerned in the matter directly, but is it not absurd to suggest the names of persons who are responsible only indirectly? With this end in view, I move that clause 10 be omitted.

Mr. H. P. V. TOWNEND: I would suggest that it is really very absurd to move the deletion of the whole clause which runs to several lines, merely because out of 15 or 20 lines 2 or 3 are not understood by Mr. Banerji: that is the only reason that he has advanced for omitting the whole clause, and I would suggest that it is a very bad one. I oppose the amendment.

The motion was put and lost.

The question that clause 10 stand part of the Bill was put and agreed to.

Mr. PRESIDENT: Is clause 6 ready now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not yet, Sir.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. I would better make a request that if clause 11 is now taken up, I hope clause 6 would not be interposed in the discussion of clause 11. That would be very inconvenient. As a matter of fact, on account of the latches of the Government, we have already wasted a lot of time over clause 6.

Mr. PRESIDENT: If I take up clause 11 now, we shall finish it and then take up clause 6.

Clause 11.

Mr. P. BANERJI: I beg to move that clause 11 be omitted.

Sir, I consider that this clause is a very dangerous one. It brings the question of surcharge in the Corporation. This clause gives too much power to the auditor. Even Mr. Miller, a prominent member of the European Association who was a member of the Select Committee, said that so much power should not be given to the auditor. Let us examine what is the object of giving this power to the auditor. It has been said that not only the Corporation as a whole but every individual member of the Corporation, Aldermen and Councillors, will be responsible, jointly and severally, if it is the opinion of the Government or, as a matter of fact, if it is the opinion of the auditor, to charge such persons individually or the Corporation as a whole for an unauthorised expenditure. Sir, what will be the logical conclusion? If the Corporation do anything in the interests of the citizens and the rate-payers, the Government will naturally find fault with them.

Sir, as we have already pointed out, Government have come forward with this question of surcharge after ten years of the working of the Corporation under the present Act when the Government had not had any occasion to find any fault with the Corporation. Government now comes forward and says that the Corporation have misused the money of their rate-payers. We can prove, Sir, that the Corporation have not misused a single farthing of the rate-payers' money. The Hon'ble Minister could not substantiate his case with facts and with sound reasoning. Every time he only said that Government were satisfied that the Corporation had misused public money but never did he prove his case with facts and figures. We from this side of the House challenge the Hon'ble Minister to substantiate his charges. We ask, where is the misuse and where is the waste of Corporation money? On the other hand, we ascribe certain motives to the Hon'ble Minister for his bringing forward this Bill which he could not even refute. We charge the Government that their object in bringing in this question

of surcharge was to create a terror in the minds of the people so that the Corporation will have to think a thousand times before they can venture to take up a good measure.

Rai Bahadur Dr. HARIDHAN DUTT: That is necessary to prevent illegal payment.

Mr. P. BANERJI: The Rai Bahadur says that it is illegal. I really do not understand what is legal and what is illegal. Whatever the Government want us to do is considered as legal and whatever the people want to do is illegal. I think that is the correct definition of the terms "legal" and "illegal" according to the Government. It seems that we are like dumb-driven cattle here, and whatever the Hon'ble Minister says, we have to admit as correct. That is the position, Sir.

As I said the other day, the object of the Government is vindictive, and another occasion when the cat was out of the bag was when Mr. Townend in a long speech dealt with the Corporation electricity scheme, and referred to the fact that Government was enjoying an undue preference in respect of a big Company at the cost of the public. Sir, respectable persons are serving the Corporation in the interests of the public and that at a tremendous sacrifice, and not as the Hon'ble Minister or the Secretary is doing here, drawing only fat salaries and doing precious little. Sir, if it is for no other consideration, it is only to serve the rate-payers of Calcutta that very respectable persons are entering the Corporation at the sacrifice of their time, energy and money. Whenever they would do anything in the interests of the people, the Government auditor would naturally find fault with them, would ask for explanations and make out cases for levying surcharge, and thus hamper the progress of the Corporation. I would have understood the position if on the recommendation of the auditor Government had made the members of the Corporation jointly responsible and not individually responsible. That this Bill has been brought forward with a purely vindictive motive is evident from the fact that members of the Corporation—prominent and respectable individuals—will be put to trouble as the surcharge will be realised from those particular persons only. You will admit, Sir, that this is a most dangerous measure that can ever be thought of. It has been said that this provision exists in the English law and also elsewhere, but I must say that it must not be forgotten that those are independent countries and men living there are not slaves. There the Government is one of the people who do not possess altogether divergent and opposite views. Therefore, what is possible and what is applicable in England will certainly not suit the people of this unfortunate country. Therefore, I am of opinion that the argument that this provision exists in England and should be extended to this country is not at all tenable.

There is another point to which I should like to refer. There is a provision in the Bill that when a surcharge will be imposed on certain persons, they will, however, have an access to the law court for redress against the decision of the Government. There may be a good case and the persons concerned may be exonerated by the court, but in that case even, the Corporation will have to meet the cost of litigation. I should say that the cost of litigation in such a case ought to be met by the auditor, and the Government, and not by the Corporation. Sir, if this clause is passed, a large amount of Corporation money will be wasted on flimsy grounds. May I inquire why for the fault of the auditor or whoever he might be, Corporation money and the rate-payers' money should be spent in vain? I will ask now the Hon'ble Minister just to explain what is his argument in favour of this. Money that will be wasted in this way will have to be paid by the Corporation! Therefore, I submit, Sir, that this is a most dangerous clause and it should be deleted.

Mr. NARENDRA KUMAR BASU: Sir, I rise to support the motion. Although Government have shifted their grounds as regards surcharge from time to time, the original charges on which this provision for surcharge was based were two, namely, that the electric schemes violated section 14 of the existing Act and that there were several other evasions of sections 14 and 97 of the present Act. I shall take these charges one after the other.

So far as the first charge is concerned, it was sought to be substantiated by a reference to what is known as the comprehensive scheme which the Corporation is supposed to have practically adopted even without Government sanction and to have put forward and carried on other smaller schemes to fit in with it, finally forming into a gigantic scheme. I am not forgetting the statements made by the Secretary, Local Self-Government Department, in his speech that there was no comprehensive scheme put forward by Dr. B. N. Dey and I am not forgetting the fulminations of Mr. Townend against Dr. Dey. I am now dealing with the original charges as put forward out of the mouth of the Hon'ble Minister and I have the communiqué, which has not yet been disowned by the Hon'ble Minister, in my favour and I am quoting from that. I may say that Mr. Townend's theory is that no scheme has ever been put forward by Dr. Dey—that no comprehensive electric scheme has been put forward and that Dr. Dey does not know his own scheme. If there were no scheme, the ground would be cut away from under the feet of the Hon'ble Minister, because if there is no comprehensive scheme how can there be other schemes to fit in with it? This I fail to understand, and I hope the Secretary, Local Self-Government Department, will exercise a little patience and hear me out and then make a reply. The comprehensive scheme, as it was

called, was adopted by the Corporation in December, 1930. After some scrutiny it was sent to the Government for sanction in May, 1931, and the scheme as it was sent up had one original letter and 16 enclosures and drawings giving details of every possible sort. Then from May, 1931, till the 31st October, 1931, the Corporation sent three reminders to the Government, but there was no reply. On the 14th November, 1931, Government sent a reply asking for details in a printed schedule. You will be surprised to hear, Sir, that this printed schedule is fashioned in the form under the Electricity Act which is to be filled by those firms which want to get sanction for supplying electricity to Bengal towns. Well, on receipt of this form by the Corporation, there was an interchange of demi-official letters between the Chief Executive Officer and the Secretary to the Local Self-Government Department and the Electrical Adviser to the Government of Bengal, with the result that 16th December was fixed for the Electrical Adviser to call and inspect the records, verify "load curve" and other details wanted by him. He did make this inspection and after satisfying himself as to the basic data from the records and "load curve" and other things, saw the Mayor and declared himself satisfied that the estimates both as regards capital costs and the unit cost of production were correct. Thereupon, about a fortnight later, he went and inspected all the pumping stations and verified the details again. Well, Sir, after that the Corporation naturally expected that they would have a definite reply from the Government very soon. But what happened in the meantime? The scheme known as scheme Nos. VIII and VIIIA which had been propounded was forwarded to the Government in February, 1931, and then there was some correspondence in regard to this scheme with the Corporation. On the 3rd November, 1931, Government wrote raising various points linking up the comprehensive scheme with scheme Nos. VIII and VIIIA and suggesting that electricity should be taken from the Supply Corporation. The Works Committee considered this letter and their resolution forwarded to Government on 12th November, 1931, was confirmed by the Corporation on the 29th February, 1932, and finally communicated to the Government on the 7th March, 1932. Then three reminders were sent to the Government on the 4th April, 25th April, and 30th June, 1932. Then their reply covering all the electric schemes was received by the Corporation on the 11th July, 1932. Sir, as I said, what happened was that the Corporation was taken unawares, as they thought that the Electrical Adviser was, after inspection, satisfied with the details of the scheme and Government would have no difficulty in sanctioning the scheme. But what happened was that when they found that the Government was still taking time and when they heard the reply of the Hon'ble Minister given on 6th June, this year to a starred question put by my friend Mr. Syamaprosad Mookerjee, the schedule was filled in so far as it was possible to fit in with the case

of the Corporation, and a copy of what had been sent to the Electrical Adviser in April or in May was sent to the Government of Bengal on 6th June, 1933.

Mr H. P. V. TOWNEND: May I correct one statement made by Mr. Basu?

Mr. NARENDRA KUMAR BASU: I refuse to yield to Mr. Townend. Now, I take the other schemes. The first one is the scheme known as scheme No. XV and the second one is scheme Nos. VIII and VIIIA. With regard to these two schemes forming part of the comprehensive scheme, I wish to ask one question of the Hon'ble Minister and the all-knowing Secretary of the Local Self-Government Department. Could the pumps provided for in the comprehensive scheme for Palmer's Bridge and Ballygunge be worked with the works done or proposed to be done in connection with schemes Nos. XV and VIII and VIIIA? I say it is absolutely nonsense to say that schemes Nos. VIII and VIIIA or XV could form part of the comprehensive scheme, because, as I have said, the pumps provided in the comprehensive scheme could not possibly form part of the other schemes.

Sir, with regard to the other points which have been made by the Local Self-Government Secretary, as stated on pages 10 to 12 of his printed letter No. 3409M., of 23rd May this year, he has brought five charges against the Corporation. He says that there are five separate instances in which the Corporation have gone counter to one or both of the sections 14 and 97. The first case is that they infringed both sections when they put in the cable from Ballygunge to Tallah *via* Palmer's Bridge. Well, Sir, Rs. 2,15,000 for pumping machineries (which specifically included Rs. 55,000 for the cable) was payable by the Calcutta Improvement Trust and not by the Corporation out of loan funds.

The second charge was that the Corporation infringed section 14 when they carried out the electrical works at Palmer's Bridge. Well, Sir, the electric pump installed was a separate item by itself. The revised cost sanctioned was Rs. 65,000. This was sanctioned on the 3rd December, 1930, the previous sanction of a lakh having been on the 8th February, 1928.

Sir, the third charge is that at Tallah they installed a generator and utilized for generating electric power primarily for pumping sewage and storm water at Ballygunge and Palmer's Bridge, a turbine and a boiler bought from the loan sanctioned for the Moore-Bateman scheme, as the letter goes on to say, against the expressed observations of their chief accountant. You will be surprised to hear that the generator was paid out of revenue and not out of the loan sanctioned for the

Moore-Bateman scheme after the chief accountant's report. The fourth charge was that they infringed section 97 when they moved from Mullickghat to Tallah pumps which were bought with loan money for pumping unfiltered water and used them for pumping filtered water. Sir, you will be surprised to hear that this was done about ten years ago and done to save the city from water famine and done at a time when one of the Corporation members was the present august Minister for Local Self-Government without any opposition from any part of the House.

The fifth charge was that at their meeting of 8th February, 1933, without applying for the sanction of the Government, the Corporation accepted a tender for a 2,500-K.W. alternator at Tallah and approved the agreement, thereby committing themselves to a scheme costing more than Rs. 2,50,000. Sir, as a matter of fact, no tender was accepted and no contract signed. The resolution was to the effect that a certain tender might be accepted.

These are the charges on the basis of which it is said that the Corporation has done something behind the back of Government and that they have infringed both sections 14 and 97. Then, Sir, what is the total cost of all these things. The total cost of the Tallah alternator was Rs. 29,000; that of the cable from Ballygunge to Tallah Rs. 55,000, and this was payable by the Calcutta Improvement Trust and should not be taken into account. (Mr. TOWNEND: Why not?) Because it was not to be paid by the Corporation but to be credited to the accounts of the Calcutta Improvement Trust. You cannot take up any stick to beat the Corporation dog with.

The third item is the Palmer's Bridge turbo-alternator costing Rs. 93,000; the fourth one is the cable from Mullick Ghat to Palmer's Bridge costing Rs. 60,000, and the fifth one is the cost of switch gear at Palmer's Bridge, Rs. 10,000. The entire total, excluding Rs. 55,000 for the cable from Ballygunge to Tallah, comes to Rs. 1,92,000. Therefore, Sir, my submission is that it is not only incorrect but positively untrue and dishonestly untrue to mislead the House into thinking that by these schemes something has been done by the Corporation which is against sections 14 and 97 of the Municipal Act.

Now, Sir, I shall take the remarks of Mr. Townend with regard to the comprehensive scheme.

Mr. H. P. V. TOWNEND: May I, Sir, point out——

Mr. NARENDRA KUMAR BASU: I refuse to yield to Mr. Townend. The mistakes he committed are legion. In his speech the other day he referred to seven great mistakes or wants of details in Dr. Dey's scheme. I shall show to you at once that in all these he was

absolutely wrong. The first point that he said was that there was no evidence that there would be any saving in the electric charges. He said, according to my notes, that according to Dr. Dey's scheme the cost would be ·299 anna and according to the Calcutta Electric Supply Corporation rates the cost would be ·1925 anna. The reply is that this is absolutely incorrect, because the Calcutta Electric Supply Corporation's rates vary from ·5 to ·29 anna for high tension (6,600 volts) for bulk electricity for Calcutta Corporation pumps on a sliding scale, and I may tell you that this rate was lowered at the end of 1931 as the direct result of this comprehensive scheme having been introduced. The second mistake was that Mr. Townend said that it was never explained what the scheme adopted was. This is based on the fact that in the scheme there are two alternatives given—one the ring main and the other the ordinary straight main. The full estimates for the second alternative with particulars were furnished to Government and as regards the first it is stated that it might be taken up if it could be brought within the estimate made. The third statement made by Mr. Townend was that Dr. Dey did not provide for Rs. 15,00,000 that was necessary to change from gas to electricity. This is absolutely incorrect. The contract with the Gas Company provides that any day the Corporation may change the street lights from gas to electricity and they will not have to pay any damages. These street lamps are not included in the comprehensive scheme. The next charge is that they did not take into account the value of the buildings and land. I submit that it is unnecessary to calculate the value of the land and buildings which are already the property of the Corporation. Then he says that the total cost is not known. I am sorry that he has not looked at the scheme. The total cost is given at Rs. 20 lakhs and adding 10 *per cent.* for contingencies it is said that it would not be more than Rs. 22 lakhs. His next statement is that the maps do not show the lines of the cables nor the allocation of the lights. This is a strange remark. This is absolutely incorrect. Then he says that there was no cost estimated for overhead wires, and this was not given. Again, I submit that Mr. Townend had not looked at the annexures to the scheme, particularly in reference to this item. I could understand if Mr. Townend had stated that there was one great detail wanting——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. It would be very difficult to reply to all these statements of Mr. Basu——

Mr. PRESIDENT: That is not a point of order. If the member in possession of the House does not yield, then it is not within the power of the Chair to compel him to yield. I may advise Mr. Townend to take notes of the points which may be raised by Mr. Basu.

Mr. H. P. V. TOWNEND: I could not catch his last point, and I was going to ask him about it.

Mr. NARENDRA KUMAR BASU: If he cannot follow, I will certainly repeat what I said. But when he spoke on this question I took down notes.

Mr. H. P. V. TOWNEND: I am taking notes, but I did not catch the last point with regard to the cost of the overhead wires.

Mr. NARENDRA KUMAR BASU: I say this is in one of the annexures to the scheme and one of the annexures is particularly directed to show the cost of the overhead wires. I could have very well understood Mr. Townend if he had stated that there was one great detail wanting in the scheme of the Corporation as to how it would affect the Calcutta Electric Supply Corporation's finances. Probably that is what Mr. Townend meant when he was saying that there were no details given, because from one of the notes of the Government itself it would appear that the soul of the Secretary to the Government in the Local Self-Government Department was very much exercised as to how or whether all of these schemes would affect the Calcutta Electric Supply Corporation. If that had been said bluntly that because the Calcutta Electric Supply Corporation would be prejudicially affected, therefore we want your scheme to be dropped. I could have understood it. I must say that I am not opposed to the principle underlying clause 11, but I do say that the provisions are not the proper provisions to be made, and moreover when they come with the reasons given by the department, I say that they come in a questionable shape and ought not to be accepted.

Mr. H. P. V. TOWNEND: Sir, may I at once reply to Mr. Basu when the points raised by him are still fresh in my mind? I must confess that I came here to-day without the papers dealing with the comprehensive electric scheme, because I did not understand how this scheme could be relevant to the debate at this stage.

Mr. PRESIDENT: I do not think you are raising the point of relevancy seriously.

Mr. H. P. V. TOWNEND: No, Sir. I am explaining to the House that I may not be able to produce documents in support of my remarks or to correct Mr. Basu on certain points about which my memory is not clear. However, it does so happen that I have here a file which contains a letter which will confute Mr. Basu on one point. I understood him to say that I had quoted a figure for the rate to be

charged for electricity by the Calcutta Electric Supply Corporation, which he declares to be definitely wrong, if not untrue. I got the figure (·1925 annas per unit) from a letter addressed to the Chief Executive Officer of the Corporation on January 26, 1931, by the Calcutta Electric Supply Corporation. A copy of the letter is here: its number is 2448. Mr. Basu quoted seven points on which he claimed to confute me. But this is one out of the seven points on which I am afraid he is wrong. Mr. Basu has obviously been driven to desperation in this debate as for the first time in my experience I notice he has been reduced to reading out a speech—and I hope he wrote it himself.

Mr. NARENDRA KUMAR BASU: I did not read a speech. I merely referred to notes. I cannot carry all these figures in my head.

Mr. H. P. V. TOWNEND: I apologise. I pass to a second point. He claims that when I said that there was no real comprehensive electric scheme, I cut away the ground from under Government's feet: because the only real argument for having the surcharge sections was the attitude taken up by the Corporation as regards electrical schemes. In this argument he has confused—or his advisers have confused—two totally different things: one is the comprehensive scheme and the other is the series of electrical works comprising a small system for generating and distributing electricity to which Government took exception. It is the attitude of the Corporation towards the latter which justifies the surcharge clauses. I may explain that in some ways the two things are not separate. Dr. Dey himself has said in his reply to the schedule that they are two different things and I myself in my previous speech dealt with the comprehensive scheme only because Mr. P. Banerji had referred to it. I really thought it not strictly relevant. Government, however, hold that the comprehensive scheme ought to have included these separate works. The Corporation put forward their comprehensive scheme for generating electricity on a wholesale scale and simultaneously they put forward some other schemes for generating electricity on a small scale. When it was suggested that these were a waste of money in view of the proposed comprehensive scheme, they said that these latter schemes were designed to dovetail into that comprehensive electric scheme. Government, therefore, said that they ought to form a part of the comprehensive scheme under section 14 of the Calcutta Municipal Act which says that when any project is framed by the Corporation for the execution of any work or series of works and the cost is to be so much, the sanction of Government is necessary. This answers the point raised by Mr. Basu when he said that if I declare that there was no detailed comprehensive scheme put forward by Dr. Dey, I cannot claim that there was anything to give sanction

to and I could not claim that it should include other works. But there is such a thing as a project: a project is not a detailed scheme necessarily, though it may become a detailed scheme or include detailed schemes The comprehensive scheme is in the project stage. I go on to the other points which Mr. Basu made so far as I could note what he said. He said that I was misleading in my remarks on the Corporation's failure to supply details about the comprehensive scheme. The other day I said definitely that the Corporation did not supply the details about the comprehensive scheme when Government asked for them and I repeat this now. Mr. Basu asserts that the Electrical Adviser satisfied himself as to the merits of the scheme when he visited the Corporation office and afterwards when he visited the various electrical works at the pumping stations: he says that after thus satisfying the Electrical Adviser the Corporation expected to be addressed by Government. The Electrical Adviser went only once to the Corporation office in this connection—to advise about the type of information wanted: he informed me of this afterwards. If the Corporation could show him everything about the scheme at one visit and satisfy him as to its merits in so short a time, it was extraordinary, but I defy anyone to be able in a few hours to get such a grasp of the whole of a scheme of this size as to be able to carry the details away in his head and reproduce them for the satisfaction of Government. Are we to believe that the Corporation thought that this would be possible? As regards Mr. Redclift's visits to the pumping stations, which Mr. Basu suggests must have been in connection with the comprehensive scheme, they obviously were not: the works there were not directly concerned with that scheme. Mr. Redclift's visits, I have no doubt, were in connection with the small electric works to which Government were objecting, if they were not made in the course of his ordinary duties—for, as Electric Inspector, he had to inspect electric works. The visit of Mr. Redclift to the Corporation office was made in response to a specific request that he should be sent to help them with advice: and it is futile to suggest that, knowing this and knowing that it was for them to satisfy the Government and not the Electrical Adviser, the Corporation waited in sublime simplicity for Government to take the initiative and address them, though they must have known that there was a Government letter pending to which they were expected to reply. That, I think, meets Mr. Basu's second and main point.

I shall now go on to the rest of the seven errors which he said I made in my previous speech: First of all, with regard to the offer of the Calcutta Electric Supply Corporation—I have answered it. The second point relates to my remarks about Dr. Dey's scheme not being definite and precise. I said, Sir, that since Dr. Dey said that he did not know whether he was going to have a ring main or what I may call a horse-shoe main—that is not a technical expression and it may

be a wrong one—he obviously did not know his own mind or had not made up his mind: the conclusion was that he had not worked out the scheme in detail. Otherwise, we are faced with an amazing situation. Dr. Dey was promising that his scheme would effect something that has never been effected anywhere else in the world, and that he would provide electricity at a much cheaper rate than it could be provided anywhere else in the world. This was in itself an extraordinary thing: but it was surely a much more extraordinary thing if Dr. Dey has been able to evolve from the recesses of his being not one but two schemes either of which would give results unknown anywhere else in the world. Sir, I congratulate Dr. Dey on his ability—and it is a marvel to me that a genius of this type for whose services all the electrical companies of the world ought to be competing should be content to remain still in the employ of the Corporation of Calcutta. But I do not believe that he had attained such results.

I say, Sir, that before he put forward his scheme he should have been able to make up his mind definitely as to which of his two alternatives was better and that he should have worked out his calculations accordingly. Even now he has not made up his mind which alternative is to be followed. Even after 19½ months he has not come to a decision on a matter which should have been settled before the issue of the Corporation's letter on the subject of the comprehensive scheme. It is obvious that he has not in fact worked the scheme out in proper detail. The next point was the cost of the change over from gas to electricity. Here, I am afraid, the gentleman who instructed Mr. Basu on this point has misunderstood me or misled him. I did not mention any compensation to be paid to the Gas Company: and I was careful to quote the figure of Rs. 15 lakhs as one which could not be calculated with any sort of accuracy for lack of data. The point is that when you have gas lamps you have got them at a certain height and you have got a certain kind of lamp, etc., but when you change over to electricity you have to have lamps of a different kind: also under the law gas lamps may be placed very much lower than electric lamps and when you take to electricity you have to change all the posts. I was told by Mr. Redcliff when I was cross-examining him on one occasion on this subject, that he believed that this important item, which was entirely omitted by the Corporation would cost about Rs. 15 lakhs; but he said frankly that he had not the data on which to calculate the cost—and for that matter I do not believe that Dr. Dey knows precisely what it would cost.

The next of the seven items about which I was mistaken according to Mr. Basu is the question of the omission of the value of the lands and buildings belonging to the Corporation from the cost of the scheme. Mr. Basu argues that these lands and buildings are the property of the Corporation and so they may do with them as they please. But,

Sir, this is a matter of accounting. I am not an accountant, and I am not a financier though I used to be in the Finance Department; but I may assure you that it is the practice that whenever you start a scheme you charge against it everything which you use for it: and it is not fair to take lands and buildings which have been purchased in another connection and to use them for your scheme without debiting the scheme with the cost of them.

The next of the seven points was simply a mistake on the part of Mr. Basu. He said that I had remarked that Dr. Dey had not given details of the cost of the scheme, and points out that he had actually given the figure of Rs. 20 lakhs or with interest 22 lakhs. I said in my speech that in addition to the 20 lakhs quoted by Mr. P. Banerji there would be required perhaps another 15 lakhs for the change over to electricity, and perhaps 10 lakhs, 5 lakhs, or 1 lakh for land and buildings—I did not know how much. So, I definitely mentioned 20 lakhs as the basic figure to which other costs should be added. Besides, it is obvious that Dr. Dey must have given some figure, when he said that the price of electricity was going to be ·299 annas per unit. My whole point was that his figure was wrong and was not supported by details. But I never said that he did not give any figure at all.

Then we come to the question of the failure of the Corporation to give details showing precisely the routes which were to be followed by cable lines. Here, I am afraid, perhaps I did not make myself clear when I spoke the other day. In an appendix to the original scheme as sent up by Dr. Dey he gave the route to be followed by the cables according to one of his alternative schemes and I quoted his remarks about it in my speech. I read out that the main cable would go from Watgunj to Mullick Ghat pumping station, thence to Bagbazar and then *vid* Circular Road, past Palmer's Bridge, down to the lake area. That was all right so far as it went, but Government asked for a plan showing details not only of the route to be followed by the cables, but also of the lines, taking off from them where they would go, etc., and that request has not really been answered.

The last point is the cost of overhead wires. The position here again is very much the same. Government asked for full details showing where the overhead wires would go. It is not much use giving totals and saying that the thing would cost so much, without giving the facts on which the totals can be checked. You have got to say what is the mileage of the wires and how and at what height they should be suspended. Well, Sir, I am not an electrician, but it seems to me that to get at the cost of wires accurately that information is absolutely necessary.

I think I have been able to answer all the various points put forward by Mr. Basu except possibly one of his remarks which I could

not catch. He said that the schemes were not separate. Well, if the Corporation had published the last letter about their electrical works which they received from Government together with the plans sent with that letter, the House would be able to see that the Corporation have under the guise of annexures, if I may say so, to two different pumping schemes, constructed a small but complete distributing centre of electricity. They generate electricity for their own use at two places and they distribute it to Mullick Ghat pumping station, Palmer's Bridge, Ballygunge and to Tallah also. They send electricity into their own offices, to their workshops, to one of their markets and to a small sub-station which they have at Ballygunge. One important thing is this: why, if they are going to generate cheap electricity under a comprehensive scheme and going to distribute it by a cable which will pass actually through Mullick Ghat, why, if they intend to do this, have they laid a line right across Calcutta to bring a supply of expensive electricity to Mullick Ghat pumping station, at a cost of perhaps Rs. 50,000 or Rs. 60,000, and after putting in a cable from Palmer's Bridge to Mullick Ghat——

Mr. NARENDRA KUMAR BASU: Because Government are dilatory and would not sanction the comprehensive scheme early.

Mr. H. P. V. TOWNEND: If Government were dilatory in sanctioning that scheme, it was because the scheme was not sent back to them. When he pressed on the scheme for the cable to Mullick Ghat, Dr. Dey was in a better position than anybody else to know this: it was he who during all this time did nothing to work out the details of his own scheme: I can well believe that he expected Government to be dilatory in dealing with a scheme of which he best knew the weakness.

As regards the cost of the small electrical works, Mr. Basu has confused two things—he thinks that this scheme is part of the comprehensive electrical scheme and that, added to it, it would have brought the cost, on Mr. Basu's own figures, up to Rs. 22,20,000, or something like that. On his own showing the small works which constitute the small distributing system needed sanction as part of the comprehensive scheme. But apart from that, the estimated cost of the small works, as far as I can see, came to over 2½ lakhs, and if we look up section 14 of the Calcutta Municipal Act, we will find that sanction to that scheme was therefore necessary. The section refers to the estimated cost, not to the actual cost: it is no use for the Corporation now to say "after all, we economised on the schemes; they did not cost as much as was estimated, they did not cost 2½ lakhs and so no sanction is necessary." Sanction emphatically was necessary when the estimated cost exceeded that figure.

Mr. NARENDRA KUMAR BASU: But out of the total an item of Rs. 55,000 had already been sanctioned by Government and this is payable out of the funds of the Calcutta Improvement Trust.

Mr. H. P. V. TOWNEND: I may remark at this stage that while he was speaking, I repeatedly asked Mr. Basu to repeat his figures, so that I might check them, but he did not do so.

Mr. NARENDRA KUMAR BASU: On a point of personal explanation, Sir. As soon as Mr. Townend asked for some details I gave them.

Mr. H. P. V. TOWNEND: He did not repeat these particular figures; but I do not think I need go into this again. But I am afraid I have got confused by Mr. Basu's interruptions and have lost the thread of my argument completely: however, I think I have been able to answer the main points raised by Mr. Basu in this explanation.

Mr. P. Banerji's motion was then put and a division taken with the following result:—

AYES.

Bahsh, Maulvi Syed Mejid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Haseni.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ashworth, Mr. C. G.
Baksh, Maulvi Shaik Rahim.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Battamley, Mr. J. M.
Carr, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. H. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hegg, Mr. C. P.
Hooper, Mr. C. G.
Hossain, Nawab Musharrul, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.

Rahman, Mr. A. F.
Ray, Babu Khetter Mohan.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, Mr. S. R.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Girin Chandra.
Solaiman, Maulvi Muhammad.
Steven, Mr. J. W. R.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

Ayes being 12 and Noes 63, the motion was lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 11, in proposed section 123(*1*), line 1, for the word "forthwith," the words "with due diligence" be substituted.

Section 123(*1*) runs thus: "The Corporation shall forthwith remedy any defects or irregularities that may be pointed out by the auditors, etc." It seems to be expecting too much from the Corporation that the defects pointed out by the auditors should be remedied forthwith. I think that even the Government cannot remedy the defects pointed out by the auditors forthwith and those who have experience of working local self-governing bodies, know very well that it is extremely difficult to remedy defects pointed out by auditors forthwith. Therefore, this seems to be a stringent provision and ought to be changed. If the proviso is looked into, it will be seen that in case of a difference of opinion between the Corporation and the auditors, if the Corporation do not remedy defects or irregularities within a period which is considered reasonable by the auditors certain steps may be taken. There also you will find that a reasonable period is spoken of. I do not know why in the original clause the word "forthwith" was used. So either my present amendment should be accepted or the other amendment No. 161 which I have tabled along with some other members and in which I suggest that the words "within a reasonable time" may be substituted for the word "forthwith" should be accepted. With these words I move my amendment.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, in proposed section 123(*1*), in line 1, for the word "forthwith," the words "within a reasonable time" be substituted.

I adopt the arguments of my friend Maulvi Tamizuddin Khan, but I would only add that it is perhaps a drafting error that got the word "forthwith" to be placed there. It starts with "forthwith" and then goes on to say that if the Corporation do not remedy any defects "within a period considered to be *reasonable* by the auditors." One thing prescribes a duty and the other prescribes a penalty for the non-performance of the duty. According to all the rules of drafting I should think that the two clauses being in the *pari materia* must be in the same language.

Mr. P. BANERJI: I beg to move that in clause 11, in proposed section 123(*1*), in line 1, for the word "forthwith," the words "within six months" be substituted.

Neither the amendment of Maulvi Tamizuddin Khan which substitutes the words "with due diligence" nor the amendment of Dr. Naresh Chandra Sen Gupta who wants to substitute the words "within a reasonable time," specify any time-limit. In my amendment I have suggested that six months' time should at least be given to the Corporation to remedy the defects. With this view, I move my amendment.

Maulvi ABUL QUASEM: I beg to move that in clause 11, in proposed section 123(*1*), in line 3, before the word "report," the word "promptly" be inserted.

The main idea behind this amendment is that there should be no delay in meeting irregularities that may be pointed out. There is no indication as to when or at what time the Corporation should take action in such cases, and with the object that they may take action without undue delay, I suggest that the word "promptly" be placed before the word "taken". I think it will be in consonance with the idea that all possible delay should be avoided.

Rai Bahadur KESHAB CHANDRA BANERJI: May I have your permission, Sir, to move an amendment to Mr. P. Banerji's motion?

Mr. PRESIDENT: Is it at all necessary? There are four amendments and could not you choose any one of them to speak on?

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, my point is that with the exception of the amendment of Mr. P. Banerji, no other amendment aims at fixing any time-limit. Mr. P. Banerji suggests six months which, to my mind, is too long a period for the purpose, and I think that two months' time is sufficient. It should not in any case exceed two months. I can say from my personal experience that in replying to audit objections the authorities concerned do require time to enable them fully to go into the objections and try to meet them. The departmental heads have got to be consulted, and the replies have got to be prepared and approved by the Board before the executive head of the local body is in a position to forward them to the Government. Therefore, neither the word "forthwith" nor the word "promptly" indicates what is a reasonable time and besides, who is to judge whether the explanations on the audit note have been submitted with due despatch or not. I think it is better to fix a time-limit and

I should limit it to two months so that there may not be any ambiguity in the matter. In the course of two months the Corporation ought to be able to reply to such objections.

Mr. PRESIDENT: You have given your reasons. If Government think fit, they may move an amendment if they so desire.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There are four amendments before the House, one is of Mr. Tamizuddin Khan, who suggests that instead of the word "forthwith" the words "with due diligence" should be substituted; the second amendment is that of Mr. P. Banerji who wants to limit the time to "six months"; the third is of Mr. Abul Quasem who wants to make it "promptly," and the fourth is that of Rai Bahadur Keshab Chandra Banerji who has suggested "two months." First of all I submit that "forthwith" is the word (A VOICE: What about the motion of Dr. Sen Gupta?) used in the Madras Act and the Bill clause follows the Madras Act and the word "forthwith" is used in other Acts too. Now the existing provision is "as soon as possible," but this has proved ineffective. Necessarily Government had to introduce the word "forthwith." As I explained when moving the reference of the Bill to Select Committee in some cases the audit report was not placed before the Corporation for four years. Reasonable time as suggested in amendment Nos. 161-163 would be too vague and would give very wide discretion to the Corporation. Mr. P. Banerji suggests "six months." It is dangerous to put down any definite time-limit. In some cases it may be disposed of in two months and in others in a few days. So no definite time-limit ought to be fixed; it is neither necessary nor desirable. The fourth amendment is for the substitution of the word "forthwith" by the word "promptly." I think the word "forthwith" is good enough.

Maulvi ABUL QUASEM: The word "promptly" does not occur in my amendment.

Mr. PRESIDENT: Order, order. You cannot speak again.

Maulvi ABUL QUASEM: I submit that the Hon'ble Minister is misrepresenting me.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: At least the word "promptly" is unnecessary.

On these grounds, I oppose all the amendments.

Dr. NARESH CHANDRA SEN GUPTA: Does the proviso refer to the difference of opinion only or also where the Corporation do not differ from the auditors?

Khan Bahadur Maulvi AZIZUL HAQUE: May I have your permission to say a few words?

Mr. PRESIDENT: Yes, you can, but I should like you to consider if you should after the Hon'ble Minister had replied.

Khan Bahadur Maulvi AZIZUL HAQUE: It is really because of what the Hon'ble Minister has just spoken.

Mr. PRESIDENT: But he would not be able to speak again.

Khan Bahadur Maulvi AZIZUL HAQUE: But Mr. Townend is there.

Mr. NARENDRA KUMAR BASU: Mr. Sen is there.

Mr. PRESIDENT: I had no intention to stop you from speaking. I wanted you to set an example.

Khan Bahadur Maulvi AZIZUL HAQUE: What I feel is that in a matter like this Government should really consider the position of a local body which has to deal with crores of rupees. I have some experience of the administration of financial affairs of a district board, and I do not agree with my friend, the Rai Bahadur, that although we have tried to deal with our financial affairs as quickly as possible, I must frankly admit that in spite of the best efforts on the part of the executive, it is not always possible——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I put a question to my friend, Sir? Does he approve of the way in which the Corporation is disposing of their audit reports? The Corporation took four years to dispose of an audit report.

Khan Bahadur Maulvi AZIZUL HAQUE: When I say that, I do not certainly support the method adopted by the Corporation nor do I support the method adopted by any local body which protracts the affairs of that local body for a considerable time. I have not much knowledge of the English language, but I think the word "forthwith" will probably put on the Corporation a duty which it would be impossible to perform if by the word "forthwith" is meant, what it is. I, therefore, think that Government should consider as to whether the

language should be so elastic as to enable the Corporation to take action on the audit report in such time within which it would be possible and reasonable for them to do.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of explanation, because I will not have the chance to reply. This will satisfy the Khan Bahadur.

Mr. PRESIDENT: If the Khan Bahadur, who is still on his legs, has no objection.

Khan Bahadur Maulvi AZIZUL HAQUE: Certainly, I am prepared to yield to the Hon'ble Minister's desire to offer an explanation.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: "Forthwith" does not mean that the Corporation must dispose of the matter overnight. A reasonable time will certainly be given to the Corporation.

Khan Bahadur Maulvi AZIZUL HAQUE: Then why not add an explanation that the word "forthwith" means "reasonable time"?

Maulvi Tamizuddin Khan's motion being put, a division was taken with the following result:—

AYES.

Gokak, Maulvi Syed Majid.
Gonerji, Mr. P.
Basu, Mr. Narendra Kumar.
Faziullah, Maulvi Mohammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Rai Mahasai, Mahendra Deb.
Ray, Mr. Ghanti Shahheswar.
Rout, Babu Hasani.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra
Shah, Maulvi Abdul Hamid.

NOES.

Ashworth, Mr. C. G.
Banerji, Rai Bahadur Keshab Chandra.
Banerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Dube, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. H. G. A.
Farooqui, the Hon'ble Nawab K. G. M. Khan Bahadur.
Fawcus, Mr. L. R.
Forgesan, Mr. R. N.
Ghuznavie the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildaar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Hossain, Nawab Musharruf, Khan Bahadur.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Magaire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mitra, Babu Surat Chandra.

Mallick, Mr. Makunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nicholl, Mr. G. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Sris Chandra.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 16 and the Noes 58, the motion was lost.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Mr. P. Banerji's motion was then put and lost.

Maulvi Abul Quasem's motion was by leave of the House withdrawn.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I refer to the fact that some of us have been very much inconvenienced on account of the prolonged discussion. So, would it not be convenient to have to-morrow a prolonged sitting, if not an all-night sitting? I have consulted certain leaders of the House and they find considerable difficulty in sitting up till late hours to-night, but some of them have no objection if we have a prolonged sitting to-morrow.

The Hon'ble Sir PROVASH CHUNDER MITTER: Generally speaking, the attitude of Government is not to curtail legitimate opportunities for discussion. If Government really wanted that, then they could have taken steps towards that end. But there is one point of view which I would like to place before the House. Each sitting of the Council costs a certain amount of money and it is perhaps something between Rs. 1,600 to Rs. 2,000. I have been watching these proceedings for a number of days. I would like to put this to them who took part in these prolonged discussions. If they thought that they were discharging their duty to their voters during these prolonged discussions, now that they had full opportunity to discharge that duty is it not time that they should take into consideration their responsibility to the tax-payers and whether they could not find out some means to adjust both these duties?

Mr. NARENDRA KUMAR BASU: If there is a definite proposal, I can consult my friends and let you know our views on the matter, but if it is put in a vague way, it is not possible to do anything.

Mr. PRESIDENT: I may tell the House that the adjournment of the House is entirely in my hands. If I find that we are not making

good progress, we must have a somewhat longer sitting to-night. Probably that would obviate the necessity of an all-night sitting to-morrow. Everything will depend on what progress we make.

Mr. NARENDRA KUMAR BASU: We did not know that there might be a prolonged sitting to-night so that some of us made other arrangements and others have already left.

Mr. PRESIDENT: I do not mean an all-night sitting. It should not cause any inconvenience to anybody if we sit a bit longer than usual to-night.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, in the proviso to proposed section 123(*1*), in lines 9 and 10, after the words "it shall be competent to the Local Government," the following words be inserted, namely:—

"after receiving and considering any explanation that may be given by the Corporation."

Sir, I would not have thought it necessary to make a speech except for the fact that the Hon'ble Minister seems to be under a misapprehension with regard to this proviso. The proviso mentions two contingencies, namely, (*1*) if there is a difference of opinion between the Corporation and the auditors, and (*2*) if the Corporation do not remedy any defect or irregularity within a period considered by the auditors to be reasonable. In either of these two contingencies the matter shall be referred to the Local Government; so far so good. I support it is understood that the auditor will refer the matter to the Local Government within such time, etc., and it shall be competent to the Local Government to pass such orders thereon as they think fit. Now, where there has been a difference of opinion between the Corporation and the auditor, there need be no occasion for a further explanation from the Corporation, because on such a reference both points of view will be placed before the Government by the Corporation and the auditor. But in the other contingency, where the Corporation has not remedied the defects or the irregularities within the time the auditor considers reasonable, the reference is made by the auditor alone and the Corporation knows nothing about it. And the Local Government passes orders upon the records placed before it. I want that it should be provided that before the Local Government takes action it should receive and consider any explanation that may be given by the Corporation. There is no question of principle in it. It is a question of mere fairness and as a matter of fact in practice the Government always gives the party concerned an opportunity of

explaining. I want to have it provided in the Act itself. The words "it shall be competent to the Local Government to pass orders thereon as they think fit" are taken from section 123 of the present Act. In that section it is provided that it shall be the duty of "the Corporation to report" to the Local Government as soon as possible the action taken by them or in the case of a difference of opinion between the Corporation and the auditors the action taken by them. After the receipt of the report of the Corporation it shall be competent to the Local Government to pass such orders as they think fit. Therefore, section 123 already provides for an explanation or report by the Corporation before the Government order is passed, whereas the Bill clause does not give any opportunity to the Corporation to explain before Government takes any action in a case where there is no difference of opinion. Now, no doubt it may be argued that it is a case of default and when the Corporation has defaulted in doing a thing, they should be penalised. But that need not necessarily be so. There may be difficulties in the way of complying with the requirements of the auditor which may take time. The Corporation ought at least to have an opportunity to explain the delay and whether action can be taken on it or whether action cannot be taken on it or whether there is a difference of opinion. There may be numerous things which may arise. I have not been a member of the Corporation, but I have been a member of a body whose accounts are audited by Government auditors. I know that to remedy all the defects pointed out by the auditors sometimes involves a great deal of time and that amount of time may not be available to the Corporation. Under the circumstances, the Corporation must have an opportunity of explaining the reasons for the delay. It may be said why I ask that it should be incorporated in the statute. The reason is that in the first place it is always better to have a legal right and in the second place because this Bill and this clause in particular has been hatched in an atmosphere of suspicion and mistrust. The Hon'ble Minister has more than once asked us not to mistrust the Government but he has always mistrusted the Corporation. Many times over there has been used an expression of mistrust towards the Corporation. When it was pointed out in connection with other matters that there was no occasion for certain changes, the Minister insisted that although such an occasion had not arisen, nevertheless it was necessary to have it because he suspected that the Corporation might act wrongly hereafter. While there is that amount of suspicion on the part of the Government, the corresponding suspicion on the part of the other side may be excusable. The safest thing would, therefore, be to have it incorporated in the statute.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This clause contemplates two situations. One is

that the Corporation shall forthwith remedy any defects or irregularities that may be pointed out when there is no difference of opinion between the Corporation and the auditors, and the other is when there is a difference of opinion, the matter shall be referred to the Local Government. In the proviso it is clearly laid down that if there is a difference of opinion between the Corporation and the auditors, the matter shall be referred to the Local Government within such time and in such manner as the Local Government may prescribe by rule. I think the Local Government may by rule lay down that the auditors while putting up the case will also put up the case as given by the Corporation. So it is not necessary to include in the Act the amendment proposed by Dr. Sen Gupta, because his proposal is that it should cover both these cases.

Mr. NARENDRA KUMAR BASU: I think the Minister has not followed what Dr. Sen Gupta said. What Dr. Sen Gupta said was that the clause would be operative in two cases, namely, where there would be a difference of opinion *ab initio* between the Corporation and the auditors and secondly where the Corporation has not carried out the directions of the auditors. It is not, as the Hon'ble Minister has put it, a case of where there is no difference of opinion or where there is a difference of opinion. I take it what the amendment seeks to do is bare justice. Where there is a difference of opinion between the Corporation and the auditors, the opinion of the Corporation will be forwarded to the Local Government, but where the Corporation has not remedied the defects, there the opinion of the Corporation will not be before the auditors and therefore only the directions of the auditors will be before Government. The grounds for neglect will not be before the auditors and it will not be possible for the auditors to forward them to Government. Therefore, I think that these words are not unnecessary and I may also say that I do not attach any importance to the reasons given by Dr. Sen Gupta that the Minister for Local Self-Government has omitted this clause because he does not like the Corporation. I do not attach any value to such a statement. I do think myself that having been a member of the Corporation for a long time the Minister must have some love for the Corporation, however, mystic or distant that love may be, it does not matter. He must have some love for the Corporation, and I do not think he would intentionally injure the Corporation in this Bill. A Minister's is after all a temporary office, and I should say that even if the present Minister is not in office, he would not want the Local Government to do something by way of passing an order in the case of the Corporation neglecting to carry out the directions of the auditors behind their back. I do not see that there is any harm in adding these words; rather they will improve the clause.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 11, in the proviso to proposed section 123(*1*), in lines 11 to 13, for the words "The orders of the Local Government shall, save as provided in sections 123B and 123C, be final" be omitted.

My point is that if there be any remedy the finality of the executive order may be deleted. If there is any objection and if there is any remedy in law courts that should not be taken away, and I think the clause should be so amended that there may not be any bar for anyone to ask for any remedy in the law court.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, these words are in the existing section 123, where the Local Government can pass such orders as they think fit upon such report and such orders shall be final. Kishori Babu's amendment will mean that this power will be deleted and will render the Corporation independent of any check or control; I oppose the motion.

The motion was put and lost.

Dr. NARESH CHANDRA SEN GUPTA: Mr. President, Sir, I beg to move that in clause 11, proposed section 123B(*1*), be omitted.

Sir, at the outset I should like to remove a misapprehension. My object is not to prevent any provision being made for realising any sum which might have been spent contrary to law, or by negligence or misconduct of any person in the Corporation. Some such provision must be made, but unfortunately the provisions that have been made are neither necessary nor conceived with that deliberation and sound judgment that ought to have characterised it. Sir, in saying that the provision was not necessary I would first of all refer to the position under the present Act. Section 123 of the present Act provides that it shall be the duty of the Corporation to report to the Local Government as soon as possible the action taken by them, or in the case of difference of opinion between the Corporation and the auditor of the action which they propose to take in respect of any defect or irregularity that might have been pointed out by the auditor. First of all, there is the audit report, after that the Corporation reports to the Local Government, and after that it is provided that after receiving the report from the Corporation it shall be competent to the Local Government to pass such order as they think fit on the report, and such order shall be final. I take it, and at any rate my reading of the section is that it gives the Local Government power to say that any such sum said to have been misspent or spent beyond the powers of the Corporation or misappropriated owing to neglect or misconduct of any person—that such sum shall be recovered from that person.

The Local Government has got that power under this section and that order is final. It is not open to revision in any place. If the Local Government makes such an order, no doubt it can do so now. This clause seeks further to provide a machinery for the recovery of the sum according to their orders. What Government thinks is that that machinery is provided by the clauses which are here. But it is not as if the Government are altogether helpless in such matters even under the law as it stands. Assuming that the audit report discloses the misappropriation of Corporation funds by a person or unauthorised expenditure of a certain amount which should not have been spent, Government's first duty would be to make an order under the present section 123 that such sum be recovered from that person who is responsible. If such an order had been made by the Government, I take it, that the Corporation, having regard to the language of the section "that this order shall be final," would not have hesitated or would not have failed to give effect to the order and to recover the money from the person who is responsible. Government might also under this section give an order to any officers of the Corporation, say, the Chief Executive Officer or the Chief Accountant, or whoever it might be, to recover the money and that order would never have been disobeyed. Supposing such an order had been disobeyed, Government in that case was not without any remedy either. Once Government had made that order and the Corporation disobeyed it, Government or any rate-payer for the matter of that, could have gone to the High Court for a writ of mandamus, and by that writ of mandamus the Corporation could be compelled to carry out the order. I am afraid that the legal consequences of non-compliance with the words of this section have not been adequately appreciated, but the fact stands that Government evidently felt that under section 123 they had not the power to set in motion a machinery for the purpose of recovering any amount which has been misspent. It is no doubt true that the present Bill seeks to provide a machinery for the recovery of such a sum in which there would be no occasion to rely upon the Corporation or go to any court. This Bill seeks to authorise the auditors of Government to make a surcharge and without even going up to the Local Government. And if there is any dispute as to the question of the liability of the parties it is for the parties surcharged to go to the court and appeal against it. In one sense it puts the person against whom a surcharge has been made in a better position than under the section in the present Act. If under the present section the Local Government makes an order upon the report of the auditors that such and such a sum should be recovered from such and such an officer of the Corporation, that order becomes absolutely final and is not open to challenge in any court. But under the present Bill an order of such surcharge is open to challenge in a court of law and it is open to the person surcharged to show that he is not liable to the surcharge.

But at the same time the machinery of the court is dispensed with—the necessity of compelling the Corporation or any officer of the Corporation by an application to the Court to carry out the order is dispensed with altogether. Why? Because, evidently, Government suspects that the Corporation may not carry out any such orders if they pass them. Sir, the pith of the matter lies in this that the Government has had no occasion up to the present time to exercise the power which they have under section 123 and it cannot be said that they did make an attempt to exercise those powers but that by reason of the obstructiveness of the Corporation or for some other reason they failed to carry out their purpose. If that be so there would have been no justification for making a departure from the present procedure. So far as the procedure is concerned, on the whole, there is not much essential difference between the two. It is quite conceivable that there may be a procedure by which a surcharge could be made and enforced without going to the court, as is done in many places. But my objection to this is that, firstly, there are numerous details in this clause which require correction. The clause has not been framed in that atmosphere of deliberation that ought to have been there and the result is a defective clause. Therefore, if Government wants that there should be a different machinery for making a surcharge from the present one let them do it by all means, but after fuller consideration, and, after a full consultation, amongst others with the Corporation—after the mist of distrust has been cleared and they know exactly where they stand. As it is it has been made abundantly clear during the debate in this House that Government hatched this Bill in a moment of irritation, an irritation, which was most clearly manifested in the letters written by Government to the Corporation and in the subsequent communiqués and in the speeches that have been made in this House—that they made it in an atmosphere in which such an important piece of legislation ought not to have been introduced. Then again, as I have said, the urgency of such legislation has not been proved, because in the first place Government has never exercised its powers which already exist under section 123 and, in the second place, although much has been said about the misdeeds of the Corporation in regard to these matters we have not yet heard that with regard to all or any of these items the auditors have made any specific objection, that the Corporation has submitted a report under section 123 or that a report under section 123 has been called for from the Corporation and that Government has taken any action upon it. Take for instance the question of the electric scheme. The expenditure which has been challenged as being an expenditure on a scheme which ought to be included within the comprehensive scheme now under the consideration of Government is said to be expenditure which is unauthorised by law. We have not yet heard whether the auditors have said so or objected to the expenditure on that ground and we have not yet heard of the

action Government has taken upon that objection. Then again take the instance of Messrs. Bando and Co.'s contract. The matter has been very much talked about in this House. The utmost that can be said in respect of Bando's contract is that the Corporation acted in a very indiscreet manner. They spent a lot of money on a piece of work which they might have done more economically; but it cannot be said that the item of expenditure was illegal or was one which could be surcharged even under the clause as it is proposed now. I have looked into the question closely; I have looked into the section as it stands and the clause which it is proposed to be introduced. I do not want to tire the Council by going into details. I say from a close examination of those cases which I have studied that it is my opinion that this clause will not enable the Government to surcharge in respect of at least three-fourths of the items which have been said to be wrongful expenditure by the Corporation. I say that this clause has not been drawn up with reference to all the circumstances that are necessary to consider. If it had been so drawn up, there would have been no difficulty. Take the Government case. The Government case is that there had been certain cases of expenditure which were undesirable and which ought to have been prevented. Let us ask ourselves whether this clause in the form in which it is proposed would enable the Government to recover those grants. We find that it would not. If it is so, the matter has got to be further investigated. If these are matters which have to be brought into the section, the section has got to be amended. Therefore, I say that the matter is one which requires a much fuller consideration, a much closer inquiry into the details of the transactions which are sought to be examined and which should not be carried through in a hurry and in a most irritated temper. By reason of what I need not say, an atmosphere of very great heat has been created; on the one hand it has been said Government are interested in the Electric Supply Corporation and on the other hand it has been said that the Corporation want to have improper expenditure on those lines and words have been bandied with them and any amount of heat has been caused and the result is the clause. As an impartial lawyer I must say that it is not adequate for the purpose, it is not more adequate than the section that already exists. I should not like to go into the circumstances which have been discussed already with regard to the suggestion that all this has been done in a hurry in order to safeguard the interests of the Electric Supply Corporation against further inroads into the income by the action of the Corporation. This has been stoutly denied by the Government. They have said that they had not got any interest in the Electric Supply Corporation. With regard to that I do not want to make any insinuation or any suggestion of unworthy interest but I would only refer to one particular fact which would show that the Government has an interest in the affairs of the Electric Supply

Corporation which cannot be altogether neglected. Government do enjoy the benefit of the supply of electric current from the Electric Supply Corporation at preferential rates, rates which are given to them on the basis of a law which does not authorise them to have it. It is a clear case of undue preference as I read the section in the Electricity Act. I do not want to go into the details of that Act, but Government do get electricity at a much cheaper rate than the ordinary consumer and therefore one need not impute bad motives when one says that Government are interested in the Electric Supply Corporation.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Dr. Sen Gupta's amendment says that in clause 11, proposed section 123(*2*) be omitted. Though Dr. Sen Gupta has admitted that he would like very much a section like that put in the Municipal Act he does not approve of the clause as it is drafted and his main argument in opposing this clause is that Government already possess sufficient power under the existing Act and this clause is, therefore, quite superfluous. He refers to section 123 of the Calcutta Municipal Act where it is said that any order passed by Government would be final and Dr. Sen Gupta's contention is that Government never tried to exercise their power given to them under section 123. I may tell him that Government considered the power quite cumbrous and they took legal opinion and the Advocate-General's opinion was that this did not give Government any power to enforce their decision. So it is quite ineffective. The Advocate-General's opinion has got to be followed. Therefore, this clause has been introduced. This clause is not something which Mr. Townend or I have hatched amongst ourselves, but it is taken bodily from well-known English statutes and other Indian statutes such as the Madras Act. We have taken practically the whole thing from other statutes which are based on experience. So there can be no objection to it because in other provinces it has proved effective. I see no reason why it will not prove effective in Calcutta as Dr. Sen Gupta seems to think. That is all, and I do not think I need say anything more on the subject. This is the most important provision in the Bill and if this clause is deleted, the Bill will be quite useless.

Dr. Naresh Chandra Sen Gupta's motion was then put and lost.

Mr. PRESIDENT: Before I adjourn the Council, I should like to tell the members that His Excellency the Governor has directed that for the remainder of this session the Council shall sit at 2-30 instead of 3 p.m.

Adjournment.

The Council was then adjourned until 2-30 p.m. on Thursday, the 7th September, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 7th September, 1933, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 98 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Cattle and cattle fodder.

***170. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state the condition of the cattle and cattle fodder in Bengal?

(*b*) Is any experiment being made in the Agricultural Farm at Dacca with regard to cattle fodder? If so, with what result?

(*c*) Is the Hon'ble Minister aware that lilac pest or water-hyacinth is a great menace to cattle fodder in Eastern Bengal?

(*d*) If the answer to (*c*) is in the affirmative, what action, if any, Government have taken to preserve the grazing ground and fodder for cattle in Eastern Bengal?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) The condition of cattle and cattle fodder in Bengal is on the whole favourable, compared with that of ten years ago. People are taking much more interest in cattle and are growing more fodder for them. There is a noticeable improvement in the stock in the districts of Nadia and Malda.

(*b*) Yes. The results of field experiments with fodder crops are embodied in the annual reports of the Agricultural Department. As regards animal nutrition work a grant of Rs. 48,950 has been made by the Imperial Council of Agricultural Research for this province for a

period of 5 years. The results are published in the Annual Reports of the Agricultural Chemist, Bengal. Copies of the Annual Reports of the Department of Agriculture, Bengal, for the years 1930-31 and 1931-32, are placed on the Library table.

(*c*) Water-hyacinth is not considered to be a menace to fodder crops, as no good fodder crop can be grown in water. Further, there are no real grazing fields in Eastern Bengal.

(*d*) Does not arise. Every attempt is, however, being made by the Agricultural Department to encourage the growing of fodder crops, especially napier grass, juar, maize and groundnuts on high lands and also making silage from *aus* paddy straw, green grass and water-hyacinth.

Rai Bahadur KESHAB CHANDRA BANERJI: Has propaganda work been actually done among the cultivators or the department is carrying on the experiment within the limits of the Dacca Farm?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Yes, propaganda has been made.

Rai Bahadur KESHAB CHANDRA BANERJI: In how many districts the work has already commenced?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I should like to have notice.

Maulvi SYED MAJID BAKSH: With reference to (*d*), does the Hon'ble Minister mean that the water-hyacinth is used for cattle fodder?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: When used in silage.

Central Sugar Committee.

*171. **Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Agriculture Department be pleased to state whether there is any member from Bengal on the Central Sugar Committee?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state who he is and how is he connected with the sugar industry in Bengal?

(*c*) If there is none from Bengal on the said Committee, will the Hon'ble Minister be pleased to state why they have not nominated any member to the said Committee from Bengal?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) No.

(*b*) The question does not arise.

(*c*) The question of representation of Bengal on the Committee is under consideration.

Insanitary condition of Chanditala police-station.

***172. MUNINDRA DEB RAI MAHASAI:** (*a*) With reference to the reply given to starred question No. 28 of the 13th March, 1933, will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement, showing the following in the Chanditala police-station—

(*i*) the total number of deaths from all diseases in the years 1931 and 1932;

(*ii*) the total amount spent through the Sanitary Inspector in distributing medicine and giving other relief in the year 1932; and

(*iii*) the total amount spent in maintaining the establishment of the Sanitary Inspector in the year 1932?

(*b*) Will the Hon'ble Minister be pleased to state whether, in the year 1932, the District Magistrate, Hooghly, visited the affected areas of the Chanditala police-station to find out the root-cause of the heavy increase in death rate?

(*c*) Are the Government considering the desirability of establishing a charitable dispensary at Janai at the expense of Government?

(*d*) Is it a fact that only a limited number of people cleared jungles, tanks and drains in response to the beat of drum given and notices issued in some cases by the union board, Janai?

(*e*) Will the Hon'ble Minister be pleased to state on whose report the reply that these measures are reported to have led to a great improvement was based?

(*f*) If the answer to (*d*) is in the affirmative, will the Hon'ble Minister be pleased to state what action has been taken to have the above measures fully carried into effect?

(*g*) Is it a fact that the Central Co-operative Anti-malaria Society, which organized work for the clearance of the Saraswati river through volunteers from the local society, have abandoned their work and the said river is now on her former moribund state, viz., full of water-hyacinth without any regular flow of water?

(*h*) Is it a fact that the District Health Officer, Hooghly (Mr. B. Ganguli), refused to render any medical help on an application for such help, made by the president, union board, Janai, to combat malaria and other diseases on the ground that he had to pay more attention to other important villages?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*)(*i*) A statement is laid on the table.

Total number of deaths from all causes—

1931—1,776.

1932—2,219.

(*ii*) Rupees 91.

(*iii*) Rupees 1,584.

(*b*) He visited Janai in July, 1932, to see the Saraswati reclamation work.

(*c*) No.

(*d*) Large tracts of jungles were cleared by the Anti-malarial Society of Janai in close co-operation with the union board. Many people also cleared their lands and ponds in obedience to notices issued by the union board.

(*e*) The local officers.

(*f*) Does not arise.

(*g*) The local anti-malarial societies are doing their best to keep the river clear of water-hyacinth, and where there are no such societies the union boards have been asked to do the work. The river is now full of water and quite navigable.

(*h*) It is reported that no such application was made.

Transfer of agricultural lands to non-agriculturists.

***173. Maulvi TAMIZUDDIN KHAN:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that agricultural lands in the province are rapidly passing into the hands of non-agriculturists from those of agriculturists through involuntary sales?

(*b*) If the answer to (*a*) is in the affirmative, do the Government intend taking any steps to check the process?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) The Cabinet Economic Committee recently inquired into the extent to which the hereditary cultivating classes in Bengal are being expropriated by those who do not themselves cultivate the land. The results of this inquiry go to show that the process of such expropriation cannot be said to be rapid in Bengal.

(*b*) Apart from measures for the amelioration of the general economic condition of agriculturists, Government do not propose to take specific steps to prevent transfer of land by involuntary sales.

Middle class unemployment.

***174. Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) what step, if any, has been taken to solve the unemployment problem of the middle classes; and

(*ii*) what step has been taken for imparting training in industries?

(*b*) Is it a fact that the Government have got demonstration parties?

(*c*) If the answer to (*b*) is in the affirmative, are the Government considering the desirability of sending within a very short time one such party to the Faridpur district, specially to Gopalganj and Madaripur?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) (*i*) and (*ii*) The member is referred to my speech in Council on the 8th instant in connection with the resolution moved by Mr. Ananda Mohan Poddar relating to middle class unemployment. There is nothing further to add.

(*b*) Yes.

(*c*) The deputation of demonstration parties to different parts of the province is made in consultation with the District Advisory Associations established under the Unemployment Relief Scheme. At the instance of the Faridpur District Advisory Association one potter's party has already been sent to work at Rajbari in that district.

Calcutta Corporation.

*175. **Babu AMULYADHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) how many Councillors are there on the present Corporation of Calcutta; and

(*ii*) how many of them are Hindus and Muhammadans and of scheduled castes?

(*b*) Is the Hon'ble Minister aware that a fair number of scheduled caste members sought election to the Calcutta Corporation but they did not succeed with one single exception?

(*c*) Will the Hon'ble Minister be pleased to state the names of the nominated Councillors with their qualifications?

(*d*) Is it a fact that there were candidates of the scheduled caste among whom there were lawyers, barristers and an engineer?

(*e*) Have any one of those referred to in (*d*) been nominated? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*)(*i*) 91.

(*ii*) There are 23 Muhammadans; the other information is not available.

(*b*), (*d*) and (*e*) The member is referred to the reply to his starred question No. 145.

(*c*) The member is referred to the *Calcutta Gazette Extraordinary* of 13th April, 1933, in which the names were published.

The Act does not prescribe any qualifications for nomination.

Maulvi SYED MAJID BAKSH: With reference to (*ii*), is it impossible to get a return for the number of Hindus?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is no such term as Hindus.

Begumpur Station on East Indian Railway.

*176. **MUNINDRA DEB RAI MAHASAI:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware—

(*i*) that the number of monthly ticket-holders from the Begumpur station on the Howrah-Burdwan Chord of the East Indian Railway were nearly 800 when the station was first opened for passenger and goods traffic; and

(*ii*) that it has been now reduced to less than half?

(*b*) Is the Hon'ble Member also aware—

(*i*) that there is no *pucca* feeder road from Panchabati, Janai, leading direct to the station; and

(*ii*) that there is no raised platform at the Begumpur station?

(*c*) Is it a fact that the Dankuni station next to the Begumpur station on the down line which has got similar passenger traffic but less goods traffic has got raised platforms?

(*d*) If the answer to (*c*) is in the affirmative, what are the reasons for the differentiation?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*)(*i*) and (*ii*) Records covering the period when the station was opened have been destroyed in accordance with the railway rules and hence a comparison of present and past traffic cannot be made. Since 1930 there has been a falling off in tickets issued.

(*b*) (*i*) There is a footpath 4 to 5 cubits in breadth running from Panchabati, Janai, to the station, which is partly *pucca*.

(*ii*) Yes.

(*c*) Yes.

(*d*) Consequent on the remodelling of Dankuni station as a junction for the Calcutta Chord Railway, raised platforms and an overbridge have been provided.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Bengal Secretariat Death Benefit Society.

71. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries (Co-operative) Department aware that there is functioning in Calcutta an organisation of Government employees called the Bengal Secretariat Death Benefit Society registered under the Co-operative Societies Act?

(*b*) Is the Hon'ble Minister aware that the existing constitution of the said Society has been recently examined by an Actuary who has pronounced it to be financially unsound?

(*c*) What control, if any, do the Government exercise over the operations of this Society?

(*d*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether Government propose taking any step to cause the Society to be put on a sound financial basis?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) and (*b*) Yes.

(*c*) The Society is annually audited under section 17 (*1*) of the Co-operative Societies Act, II of 1912. The Registrar of Co-operative Societies may also hold an inquiry into the constitution, working and financial condition of the Society under section 35 (*1*) of Co-operative Societies Act and may cancel the registration of the Society on the result of such an inquiry under section 39(*1*) of the Act.

(*d*) It is understood that while the Committee of Management of the Society is anxious to introduce the scheme suggested by the Actuary, the general body of members are opposed to this and have at a general meeting held on 20th May, 1933, appointed a sub-committee to inquire and report how the defects, if any, in the existing constitution of the Society can be remedied. The Co-operative Department is watching the working of the Society and awaiting the decision of the general meeting on the report of the sub-committee before taking further action.

Swami Jnanananda restrained from addressing public meetings.

72. Mr. P. BANERJI: (*a*) Is the Hon'ble Member in charge of the Political Department aware that the District Magistrate of Mymensingh and Subdivisional Officers of Brahmanbaria and Kishoreganj have served notice on Swami Jnanananda under section 144, Criminal Procedure Code, restraining him from attending any meeting in these areas?

(*b*) Is it a fact that Swami Jnanananda has recently addressed several meetings at Dacca, Comilla, Chandpur, Noakhali and other places on the present condition of the political prisoners in the Cellular Jail, Andamans?

(*c*) Did any disturbance to "public tranquillity" take place at those places?

(*d*) If the answer to (*c*) is in the negative, what are the special circumstances which have led the authorities to believe that "public tranquillity" at Brahmanbaria, Kishoreganj and Mymensingh will be disturbed by such meetings?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) No. At Brahmanbaria he was restrained from addressing any meeting, at Kishoreganj from holding any political meeting as advertised, and at Mymensingh from organising, participating in or in addressing any public meetings.

(*b*) Yes, but he did not confine himself to the subject mentioned.

(*c*) No.

(*d*) The orders were passed in judicial proceedings and Government presume that the Courts issuing the orders were satisfied that they were justified.

Mr. SHANTI SHEKHARESWAR RAY: With reference to (*c*), has the Hon'ble Member called for the papers in connection with the judicial proceedings and have satisfied himself that the orders are justified?

The Hon'ble Sir WILLIAM PRENTICE: I am not a Court of Revision.

Mr. SHANTI SHEKHARESWAR RAY: Are the Government satisfied that the orders were correct?

The Hon'ble Sir WILLIAM PRENTICE: I would refer the Hon'ble Member to (*d*).

Mr. SHANTI SHEKHARESWAR RAY: I am asking whether the Government are satisfied that the orders were justified and correct?

The Hon'ble Sir WILLIAM PRENTICE: The proper authority for revising judicial orders are the Judicial Courts and not the Executive Government.

Mr. A. R. E. LOCKHART: In the opinion of Government are not the series of questions——

Mr. PRESIDENT: I do not allow that question.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member aware that the District Magistrate in the course of his judgment said that the order of the Lower Court did not contain any correct detail?

The Hon'ble Sir WILLIAM PRENTICE: I am not aware. I have not seen the order.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member prepared to go into the matter and see that justice is done?

The Hon'ble Sir WILLIAM PRENTICE: I am not a Court of Revision, and I am sure that the Council will strongly resent any interference by executive authorities with judicial orders.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

Calcutta Municipal (Amendment) Bill, 1933.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. When we came into the Chamber to-day, we found among other papers handed to us and laid on the table a paper headed "Ruling by the Hon'ble President" in regard to clause 6. There are 2 clauses given to us—one No. 6 wanting to introduce a clause 88A and the other is No. 6A adding clause 91A. So far as the clauses are concerned, I submit they are absolutely new clauses and we have not had sufficient time to consider the amendments.

Mr. PRESIDENT: How do you mean? In substance they are not new. All that I can do is to make all amendments of which notice had been given for the old clause applicable to these.

Mr. NARENDRA KUMAR BASU: I am afraid that cannot be done, Sir, because some of my amendments cannot be made applicable to these clauses

Mr. PRESIDENT: I shall be prepared in such cases to accept short-notice amendments. But there must be no delay in the matter.

Mr. B. C. CHATTERJEE: Sir, Government took 18 hours to formulate these, and I think that the House should surely have 18 hours to consider them.

Mr. PRESIDENT: When I asked Government to split up the original clause into two independent clauses, I imposed on them a very delicate if not difficult task. They have acted up to my ruling. Naturally I had to give them sufficient time to frame the clauses and put them into form. Besides, Mr. Basu insisted that if clause 11 is taken up it must be finished before clause 6 is dealt with. But any way, the difficulty mentioned by Mr. B. C. Chatterjee is imaginary, as in substance the two clauses are not new either in respect of any principle or detail. On the other hand, I have no doubt that the amendments are applicable to these clauses and in case any difficulty arises, I shall be prepared to accept short-notice amendments.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir.

Mr. PRESIDENT: Has it anything to do with my ruling?

Mr. SHANTI SHEKHARESWAR RAY: No, Sir, it is quite on a different matter. Is it not necessary that the consent of the Governor-General should be obtained in regard to these clauses?

Mr. PRESIDENT: I am afraid you have not been able to catch the full significance of my ruling. Did I not say that the clause, as amended by the Select Committee, was not contrary to the principle of the Bill. The principle of the Bill is to make introduction of surcharge in respect of any illegal expenditure possible and the new matters which were sought to be included were merely details or offshoots included in the principle of the Bill. The only thing that I objected to was the introduction of new matters into the clause by means of an amendment which was beyond the scope of the clause itself.

Mr. NARENDRA KUMAR BASU: I am not quarrelling with the Hon'ble President's ruling in any shape or form, but might I point out that in carrying out the instructions given by you, Government have put in a new clause 88A which, I submit, has no relevancy to the Act as it stands. Section 88 deals with temporary payments and 89 deals with compensation to the Tollyganj Municipality. At the first part it appears that section 88A can have no application to a grant of this description. The difficulty is when I asked to have this new clause

taken up after the disposal of clause 11 we were under the impression that the new clause would be circulated before to-day, and we are not yet ready——

Mr. PRESIDENT: Order, order. For obvious reasons I hold, and that very firmly, that the two clauses are in substance the same that was in the Bill and as they stand now they are absolutely sound in form and well-placed.

Clause 11.

Mr. P. N. GUHA: Mr. President, Sir, I beg to move that in clause 11, for proposed section 123B(*1*), the following be substituted, namely:—

"(*1*) The auditors after giving the persons concerned an opportunity to submit an explanation shall, if such explanation is considered unsatisfactory by them, report the matter in question to the Local Government who at their discretion may disallow all or every item of account contrary to law and surcharge the same on the persons making or authorising the making of the illegal payment and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall in every such case certify the amount due from such person."

In doing so I shall at the outset apologise to my friends on the other side of the House, for some of them seem to be of opinion that those who have been supporting the Bill in any way have no right to move amendments and this was probably the reason which induced my friend Mr. Narendra Kumar Basu to oppose my amendment the other day. Sir, there are men who have their own peculiarities, angularities and idiosyncrasies, and I am one of them. Sir, I am one of those very few men who do not consider that whatever is done by the Government is right or that every action of the Government must be wrong. It is for this reason that I do not think that one giving his support to a certain portion of the Bill is precluded from giving his opposition to certain other portions.

Sir, in moving this amendment I want to make it clear at the outset that the clause as it stands violates a principle over which the liberal politicians of India have been fighting for the last half a century and that principle is the separation of the executive from the judicial function. This particular clause as it stands in the Bill has made the auditors the accusers, so far as illegal expenses are concerned. They have been given powers to find out what the illegal expenses are and who has incurred them. The penalty of surcharge has to be imposed on such persons as are, in the opinion of the auditors, responsible for sanctioning the expenditures. It will be realized that here the auditors stand

in the position of the prosecutors or in other words they hold a person liable to pay the money spent which in their opinion was illegal. Here two issues arise. First is that whether the expenditure considered illegal by the auditors is really illegal in the light of the law and second if the person whom they make liable for payment is really the guilty person. Not to speak of the law, even common sense will dictate that the findings of the auditors should be examined by a third party. The clause as it stands makes no provision like that. It has given powers to the auditors to pronounce the final verdict. Person or persons whom they make liable shall have to pay without any right to challenge their decision. The accusers and the prosecutors are the judges here and their verdict will stand. This is a pernicious principle. It is true that there are other provisions in the Bill under which the Government may either of their own accord or on an appeal from the aggrieved party can move in the matter and condone everything. That, however, does not remove the objection on principle. Sir, I hold that it is a bad principle to authorize one and the same party to find out what is illegal expenditure, who incurred them and finally to surcharge. Sir, I hold that the auditors should be compelled to report the matter after detecting an illegal expenditure and person or persons who in their opinion should be surcharged and leave the final decision with the Government. The principle underlying my contention was fully elaborated by Mr. Miller in his able and well-reasoned note of dissent, but I am surprised to find that neither he nor anyone else of his group thought it necessary to table an amendment on this behalf.

Sir, we were told by the Hon'ble Minister the other day that the Accountant-General and the Examiner of Local Accounts were the Government auditors of the accounts of the Calcutta Corporation. They are not the servants of the Government of Bengal, but only carry out certain duties in connection with the affairs of the Local Government. I do not know what the real technical position is, but so far as I can see, these officers who serve under the Government of India can, whenever they please, snap their fingers at the Government and the people of Bengal. They are under no obligation to give any explanation for any of their actions to the Government of Bengal and the representatives of the people in this House will not be in order to criticize their action. It is for these reasons as well that the final power should not be vested in the auditors.

Sir, the Government have been made the appellate authorities in this connection. One fails to realize why they should remain in the background. Where is the harm in taking the direct responsibility by them? Sir, it has been said—I am reluctant to mention it but the necessity compels me to do so—that in view of the strained relationship that exists between the Corporation and the Government at the present moment it would not be advisable for the Government to take

the odium upon themselves. I for one do not believe that the existing strained relationship between the Corporation and the Government will go on for ever. It is bound to disappear sooner or later. Time is not far off when the people who are conducting the affairs of the Corporation, or for the matter of that of other local bodies as well, will have a hand in conducting the affairs of the Government. It is, therefore, not right to assume that there will exist strained relationship between the Government of Bengal and the Corporation of Calcutta for all time to come. Further, taking it for granted that the situation will not change, even then why should the Government hesitate to perform a duty, however unpleasant it may be? The Government have already assumed a great power under this Bill for they have taken upon themselves the power of regulating the appointments of all kinds in the Corporation. The final orders regarding the surcharge would not involve more unpleasantness. Sir, I think that the Government have adopted a wrong policy in giving the powers of surcharge to a party responsible neither to the Government nor to the people of Bengal. Sir, I will not at this fag end of the debate tire the patience of the House by quoting the relevant passages from the able note of dissent of Mr. Miller. He has very ably and intelligently pointed out the defects of the principle adopted by the Government. I agree with him in thinking that the accusers should not be the judges, and so the auditors should only report to the Government and leave the final decision with them. I hope that the Government will see their way to accept my amendment.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, in proposed section 123B(*1*), in line 1, for the words "The auditor" the words "the Local Government, acting on the report of an auditor in this behalf" be substituted.

The effect of my amendment would be that instead of the "auditor" we shall have the "Local Government acting on the report of an auditor in this behalf"; in other words, after the explanation has been given and considered, it is the Local Government that should make the surcharge. The reasons for such a change have been given very fully by Mr. Miller in his note of dissent, and I do not think I should dilate upon the matter any further beyond saying that so far as the judgment of the auditor with regard to the illegality of an expenditure or the liability to surcharge is concerned, the matter should be submitted to the Local Government before a surcharge is made.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 11, in proposed section 123B(*1*), in line 4, for the word "'shall' the words "may report to the Local Government if he thinks fit and the Government may" be substituted, and in line 13 after the words "'such case" the words "direct the auditor to" be inserted.

My position is this, that the auditor should not be invested with the power of surcharging without reference to the Government of Bengal. Apart from the reasons which have already been adduced, I should like to add one more reason. If the amendment is carried, in that case it will simplify the procedure and Government will have at once an opportunity of knowing whether the auditor should be supported in his recommendation for surcharge. This will obviate any loss of time, and I should say waste of energy, in having an appeal to the Government. Of course it may be said that so far as the British Act is concerned there is the surcharge power given to the auditor. The British Act, however, does not apply to the Corporation of London and as a matter of fact we are dealing with the Corporation of the second city in the Empire and nothing should be done which is derogatory to the self-respect of such a body as the Corporation and if the auditor is simply invested with the power of reference to Government, it will give him time to think over the matter and my amendment will afford an opportunity to the auditor to call for any explanation and if the explanation is not satisfactory, he will in that case be empowered to make a reference to the Government. In the second stage Government may also call for further explanation if they are not satisfied and then they will pass final orders. The final stage will be reached very quickly and at the same time the prestige of the second city in the Empire will be maintained.

Mr. C. C. MILLER: Sir, in opposing this amendment, I hope I shall not occupy more than a few minutes of the valuable time of this House.

Let me say at once that this group approves of the principle embodied in the amendment and our approval is put on record by my note of dissent to the report of the Select Committee. Unfortunately, Sir, the progress of this debate has entirely disillusioned us as to the possibility of immediate application of this excellent principle.

If the Corporation and those speakers who represent the point of view of the Corporation would only realise that the surcharge system is not bureaucratic tyranny but entirely normal legislation on the part of Government to protect the rate-payer's money from wastage, the position would be much more simple. If the Corporation of Calcutta were prepared to co-operate with Government, in the same way that local self-governing bodies throughout the United Kingdom co-operate with the authorities, we should readily support this measure. Unfortunately, it is quite obvious that one section of this House, who we presume represent the point of view of the Corporation, attributes the introduction of this Bill to a spirit of malice and vindictiveness on the

part of the Government towards the Corporation. Yesterday, speaking on clause No. 11, Dr. Naresh Sen Gupta remarked that the Bill was hatched in an atmosphere of suspicion and distrust and on the many occasions on which Mr. P. Banerji has addressed the House he has seldom missed the opportunity of using that overworked word "vindictiveness".

Throughout the long course of these discussions the opposition has consistently reduced impersonal legislation to a personal factor, thereby revealing a mentality which we consider is far more appropriate to the school-room than to the Council House. Much as we may regret this puerile attitude, we would not blind ourselves to its existence or to the fact that the application of the powers contained in this clause will, when the Bill has become law, be met with hostility and resentment by the Corporation of Calcutta. Under these circumstances, if the Hon'ble Minister himself were to represent the surcharging authority, it would serve merely to perpetuate this strident outcry of malice and vindictiveness. On the other hand, an auditor, in his official capacity, cannot be accused of a vindictive spirit or cannot perhaps be accused of any of the common failings of humanity.

Mr. PRESIDENT: I am afraid the whole of the previous debate is being reopened and it will be difficult for me to control others if I allow you to do so.

Mr. C. C. MILLER: I can finish just now. If and when there is evidence that the Corporation of Calcutta will exchange resentment for genuine co-operation then we should welcome an amendment of this nature, but in the meantime, with some regret, we oppose it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose these amendments. The mover of the first amendment Mr. Guha has characterised the principle of making auditors the surcharging authority as bad. But I can inform him that that is the accepted principle in Great Britain. The auditors are expected to be non-party men. They have no connection with the Local Government, which is said to be vindictive against the Corporation. The auditors are the Accountant-General, Bengal, and the Examiner of Local Accounts. They are officers of the Government of India. So they can approach the question with a certain amount of detachment which the Local Government is supposed to be lacking. Mr. Guha asked why should a judicial authority be the executive authority. The auditors are not judicial officers. Their functions are purely executive; otherwise they

would not have to appear before the Courts as defendants. When a person will file an appeal before the High Court, the auditors will be hauled up as defendants. So they are not judicial authority. There are three elements in surcharge, namely, that surcharge should be automatic; if there is an irregularity, there should be a surcharge, and that surcharge should be fixed on a certain person. No choice is left to the auditors. The auditors must fix the responsibility on a certain person. If an appeal is filed to them the Local Government may condone the surcharge. So, on political grounds as well as following the principles which are the accepted and recognised principles in Great Britain, I think the system that has been suggested in the Bill should be accepted by the House. With these words I oppose the amendment.

Mr. Narendra Kumar Basu having risen to speak——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. I should say that it is very unfair if my friend is allowed to speak after me, because I won't get any chance of replying to his remarks.

Mr. PRESIDENT: Although it cannot be a point of order and there is no rule which provides remedy for the grievance, I put it to the House that, as far as possible, those who want to speak might do so before the Hon'ble Minister had replied. Evidently for good reasons, that practice generally prevails everywhere—it is a courtesy which is extended to a Minister who has got to meet so many points raised by different sections in the House.

Mr. NARENDRA KUMAR BASU: Sir, may I submit that as you are aware, Government have several spokesmen in this House and unless and until we are told what is the attitude of Government on a particular question, it is not necessary for us to speak. The Minister may get up and say something which requires our comment.

Mr. PRESIDENT: I quite agree that when the Minister makes out an altogether new point which requires a reply one may have to speak after him, but I think the practice to which I have just referred to should be followed under normal conditions.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He was a member of the Select Committee and knows what the attitude of Government is.

Mr. NARENDRA KUMAR BASU: I submit, Sir, that before hearing a speaker it is not open to another member to say that he is unfair. So, I hope you will allow me to speak.

Mr. PRESIDENT: Yes, you may speak, but I hope you and the House will bear in mind my suggestion.

Mr. NARENDRA KUMAR BASU: I have always bowed to your ruling, Sir, but I am extremely sorry to have to say that I shall not bow to the authority of any other person in this House, nor shall I be brow-beaten by anybody however exalted his temporary position may be. I beg to support the amendment moved by Dr. Naresh Chandra Sen Gupta. I am not at all surprised at Mr. Miller's *volte face*. He said that so far as this clause was concerned, he and his group had been compelled to change their point of view, because some members of the House has brought in here an atmosphere of the school-room, but he has forgotten that by their attitude he has brought in an atmosphere described in that great book "Uncle Tom's Cabin." He is simply bringing in the atmosphere of serfdom into the House. It seems that though he supported our point of view in the note of dissent in the Select Committee, he now wants to support Government. However, I am not now dealing with Mr. Miller's attitude or the mill that he grinds. I am just thinking of the correctness or otherwise of the suggestion put forward. It has been said that because the Hon'ble Minister has been charged with having brought up this Bill after hatching it in secret and in vindictiveness, if the matter were left to the decision of the Local Government, the same charge may be brought against them. But I say that the Local Government does not necessarily mean the present Minister. He will not always be the Minister in charge. If there is no report against anybody by the auditors, there shall be no appeal to the Local Government, but if there is a report by the auditors against somebody, there ought to be another independent tribunal to go into the case. I submit, Sir, that it is absolutely necessary to have such a point of view, because even though the auditors are very high accounting officers, they are merely accounts officers and may not be cognizant of other facts in connection with the payment. It is said that, if the Local Government is given that power, the present tension would continue, but certainly like Tennyson's "Brook" the Minister will not go on for ever, and when the present tension between the two parties is removed by removing the persons concerned, then I think this amendment is likely to do immense good. I, therefore, commend this amendment to the acceptance of the House.

Mr. P. N. Guha's motion was then put and lost.

Dr. Naresh Chandra Sen Gupta's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Bakth, Maulvi Syed Majid.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Choudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Guha, Mr. P. N.
Hoque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mamin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Nag, Babu Sah Lal.
Rai Mahasai, Manindra Deb.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Nocomi.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdal Hamid.
Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Mahammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kumini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. N. G. A.
Essufji, Maulvi Nur Rahman Khan.
Fareqai, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Hilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Hagg, Mr. G. P.
Hooper, Mr. S. S.
Hossain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Mohammad.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahaman.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chander.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mullick, Mr. Mahendra Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimaddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abder-.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Satiswar Singh.
Ray, Mr. Sarat Kumar.
Roy, Mr. S. N.
Ray Choudhuri, Babu Hem Chandra.
Sahaan, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Birla Chandra.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 24 and the Noes 37, the motion was lost.

Babu Satish Chandra Ray Chowdhury's motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: With your permission, Sir, I would like to add the word "and" after the word "payment" in the last line of my amendment.

Mr. PRESIDENT: All right, you have my permission to do so.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 11, in proposed section 123B(*1*), in lines 6 to 8, for the words "making or authorising the making of the illegal payment and shall charge against" the words "taking the payment and" be substituted.

My intention is that we need not penalise a person for doing something in a meeting. Really, the person who takes the payment, he should be pursued and along with him the person whose mistake in accounting or negligence or misconduct causes any loss to the Corporation, he should be pursued. That will have a sufficiently deterrent effect upon such misdeeds; indeed it is strange that it is not the person who defrauds the Corporation but rather the person who only authorises in a meeting such an expenditure should be pursued. It is the former who should be made responsible for the payment and the money should be realised from him. After all, the accounting officers should be blamed and if such a provision is there that the person accounting and the person taking advantage of the payment should be punished, that will serve the purpose; for generally in a meeting it is very difficult for persons to inquire all about accounts matters and to see whether the accounts have been correctly made up. Generally when one sits in a meeting and finds that accounts have been prepared and certified by the head of the Accounts Department, he takes them to be correct. In that view I think the Councillors or Aldermen may not be pursued, but the persons who are primarily responsible for the fraud, it is they only who should be pursued. In this view I have moved my amendment and I hope it will be accepted.

Mr. H. P. V. TOWNEND: Sir, on behalf of Government I may say that I am very sorry that this amendment cannot be accepted. The first objection is one of principle. Kishori Babu's amendment would amount to this, that when the Corporation ought to institute a civil suit they may instead recover by a surcharge upon the auditors.

If an auditor found that the Corporation had sustained loss apparently through the action of some member of the public, or if there was a dispute over the terms of a contract, the auditor could summarily surcharge the member of the public or the contractor for the amount of the damages or of the payment which is thought to be illegal. How would such persons have an opportunity of defending themselves against that surcharge? That is the position that the amendment would lead to.

The second point is a question of form. The omission of the words "surcharge and charge again" is really fatal to the grammar of the clause. With the amendment it would read "The auditors shall disallow every item of account contrary to law, and surcharge the same upon the person taking the payment or any person accounting....."

so far it would be all right, but the rest of the clause would hang in the air and would mean nothing. So, I am afraid the motion cannot be accepted.

The motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 11, in proposed section 123B(*1*), in line 10, the words "negligence or" be omitted.

I will just read out the relevant portion of the clause so as to make the matter more clear to the members of this House. The clause gives power to the auditor to "charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person," and I am asking the House to consider whether the words "negligence or" should not be deleted. Sir, it is a very vital principle of law that unless the negligence of a person is failure to do something which it is his duty under the law to do the man is neither liable civilly nor criminally, and the mere accident of negligence would not make a person chargeable with any damages. Here, if the negligence is unlawful negligence or consists in omitting to do something which it is that person's lawful duty to do, it would come within the term "misconduct," but in a legislation of this description to say that a person shall be charged for any deficiency or loss incurred by negligence is, I submit, stretching the law absolutely further than it has up to now been stretched in any case. I, therefore, submit that it would only be lawful and less negligent of this House in matters of legislation to delete the words "negligence or."

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 11, after proposed section 123B(*1*), the following be inserted namely:—

"Provided that no certificate shall be issued against any person for anything in good faith done or intended to be done under this Act."

Sir, I do not want to speak at length on this amendment. I think I shall have the support of the Government benches, because I have found that in recent legislations this proviso has invariably found a place. Sir, I think that unless we make such a provision, it might hamper the work of the Corporation. Sometimes it may be necessary to spend money in an emergency and executive officers have to take great responsibilities on such occasions, and unless they are assured that they will not be held to account for any action done in good faith, it will be very difficult for them to discharge their responsiblities in the correct spirit. I do not know what the attitude of the Hon'ble Minister is going to be in this connection. But anyway I think a miracle will happen and the Hon'ble Minister will accept my amendment.

Rai Bahadur Dr. HARIDHAN DUTT: May I inquire from the mover of this amendment what he means by good faith? May I place before him an instance? Supposing a Councillor or a high officer of the Corporation spend Rs. 5,000 on a particular occasion in what is supposed to be good faith, who would decide whether the gentleman has acted in good faith or in a malafide way. I should like to know what is meant by good faith, and how that good faith is to be established.

Dr. NARESH CHANDRA SEN GUPTA: In answer to Dr. Dutt, I would only point out that the word "good faith" is well-known in law, and is defined in the General Clauses Act.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose the two amendments. The words "good faith" may be very well known in law, but it is not found in similar clauses in the English statute or in similar clauses in the other provincial statutes. It does not find a place in section 247(7) of the Public Health Act of England of 1875, neither does it find a place in section 21 of the Madras Act. Sir, if this amendment is carried or accepted by the House, its only effect would be to place an undue responsibility on the auditor; they would be given a discretion as to where they should surcharge and where they should not surcharge. That would be reducing these executive officers to judicial officers which would be very undesirable. If there are irregularities, as it is provided for in the Bill, it would be the clear duty of the auditors to surcharge, but if the Local Government find that the act was done in good faith, it would be open to them to condone it. That is the provision in the English statutes as well as in the Indian statutes. I do not see any reason whatsoever why there should be a departure here.

Mr. Narendra Kumar Basu says that negligence should be condoned. This is a very novel principle which my hon'ble friend wants the House to accept. Negligence may be culpable; but if the act was done in good faith certainly it would be open to the Local Government to condone the negligence. Why should the auditors be given the discretion to surcharge or not to surcharge. On these grounds, I oppose the amendments.

Mr. Shanti Shekhareswar Ray's motion was then put and lost.

Mr. Shanti Shekhareswar Ray's motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 11, proposed section 123B(2) be omitted.

This clause is really an explanation of the previous clause which says "the person making or authorising the making of illegal payment" and so forth, and there are the additional words "joint

liability." I think this is not necessary. The previous clause is quite sufficient for the purpose. In this view, I move the amendment.

Mr. H. P. V. TOWNEND: I am afraid that Kishori Babu has misunderstood the point. The first part of this clause does repeat what is stated in sub-section (*1*), but the important part of the clause is contained in the words "if he votes for such motion or resolution, and all persons so voting shall be held jointly and severally responsible." If it was not for these words, there would be no protection for any person who was present at the meeting but did not actually vote. It might be held by an auditor and I understand that it has so been held elsewhere, that all the persons present at the meeting which passed the resolution, who did not actually oppose the motion, were to be considered responsible for the passing of the resolution. But some of these persons might have fair and valid reasons for not taking part in the voting, and such persons ought to be protected. So this clause was put in. For these reasons I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid I do not labour under the misapprehension which Mr. Townend thinks Kishori Babu is labouring under. This clause seeks to make a Councillor or Alderman liable who has voted for what becomes an illegal payment by reason of disallowance subsequently. Voting for is regarded as a sufficient ground for making the surcharge against the Councillor or Alderman. I do not think there is precedent for such a clause. My friend Rai Bahadur Haridhan Dutt on one occasion referred to the analogy of the directors of a company. Unfortunately he went out of his depths into company law and fumbled. He said that under the Indian Companies Act, directors are liable for any amount which is misspent. In the first place, the Indian Companies Act, excepting section 100 which relates to prospectuses, etc., and the section relating to misfeasance cases on winding up, contains no provision to any such effect. What the directors are liable for is not merely for voting for expenditure which is found to be illegal but doing it knowingly or knowing it to be illegal. The *bonâ fide* vote of a director under a mistaken view that what he was voting for is legal has been systematically held to be one which would not make him liable for misuse of his vote. That is so well established a proposition that it is surprising to find that the Government want that a Councillor or Alderman or a member of a Committee should be liable for any expenditure which has been incurred although he may have been labouring under an erroneous impression with regard to the legality of that expenditure. It has been held in many cases with regard to directors that they are in the position of trustees, and they are liable in the same way as trustees, but no trustee is liable for any amount he spends *bonâ fide*

for the furtherance of the trust. If such an expenditure was even incurred, it may be a misfortune, and on that principle a trustee is always safe if he takes legal advice before deciding a doubtful question. If that is the position with the trustees, if that is the position of the directors of companies, I do not see why the position of the Councillors and Aldermen of the Corporation should be different, and why they should be made liable for expenditure which is subsequently disallowed under this clause, simply because he votes funds under a view of law or facts which does not find acceptance with the auditor. If the auditor considers a particular expenditure to have been *ultra vires*, forthwith the list of the voters at the municipal meeting should be scrutinised and everyone who has voted for the expenditure will have to be surcharged by the auditor because the auditor has no discretion in the matter and because the Hon'ble Minister has very rightly pointed out that the surcharge has got to be automatic according to this system. On the other hand, if the Government had accepted the other view, then the surcharge would not have been automatic and in that case this clause might have been left out. But the moment it is found that there is an expenditure which has been disallowed and a particular person voted for it, however, innocently, and no matter with what amount of good faith, he will be surcharged. Well, what does it mean? The effect of this will be to make it impossible for Aldermen and Councillors to vote on matters that come before them. First of all they will ask for legal advice to be taken whether it is within the competence of the Corporation to sanction the money or not. The work of the Corporation will be terribly hampered. In other words, the expenditure of the Corporation for obtaining legal opinions will enormously increase. Supposing the Councillors and Aldermen are not surcharged, the man who makes the payment is made liable by sub-clause (*l*) and provision is made for the recovery of the amount from him. Why then hang this clause hanging like the sword of Damocles over the heads of the Councillors and Aldermen who sit to discuss questions with perfect good faith and try to arrive at conclusions which will be beneficial to the tax-payers. It may be that they might have recommended an expenditure, which is not strictly legal, in perfect good faith, but it does not necessarily follow that they should be made to compensate for any loss that may occur. Another matter which has not been considered in this clause at all is this: when Aldermen and Councillors authorise an expenditure which is found to be illegal, they are to be surcharged; but suppose that the Corporation benefits by that expenditure, although it may be illegal, is there any provision in the clause for crediting the Aldermen or the Councillors with the result of the supposed illegal act of the Councillors and Aldermen? Read the clause as it is: so soon as it is found that a lakh of rupees has been spent illegally it will at once be surcharged; but on the other hand, if the Corporation benefits to the extent of five lakhs by spending that

one lakh, what will happen? Will you credit the persons surcharged with that five lakhs? Where is the safeguard to protect the Councillors and Aldermen in such cases? I could have understood if you had made a provision for setting off the benefit against the loss. No Corporation can act on the basis of such a law. Whenever a Councillor or Alderman votes for an expenditure he runs the risk of being found liable for the same which he along with others authorised, if it is afterwards disallowed. In that case every Councillor and Alderman will think not thrice but thirty thousand times before he gives his vote one way or the other. And when it is considered that the loss includes not only illegal or *ultra vires* expenditure, but also includes any deficiency or loss incurred through negligence or anything like that, the thing becomes absolutely impossible. Well, perhaps I shall be told that these are matters which may be rectified by the Local Government; but the Local Government deliberately opposed my proposal authorising them to come in and have their say before the surcharge is made. Hundreds of such items will be found, on which, technically, the Accountant-General will be entitled to surcharge. The Local Government may consider whether in all these cases surcharge should be made at all, but the Local Government does not want that power of exercising their discretion. What they want is that surcharge must come first and then the men may appeal to the Local Government and then all sorts of red-tapism will come into play. We have tried to make the provision as rational and as reasonable as possible and the only reward that we get is that some members on the other side rise and chide us by saying that we are obstructive and even go so far as to say that we make puerile objections. They say puerile and take recourse to vituperations and innuendoes of this type because they are not anxious to follow the justification or logic of our contentions. Is it suggested that we are the hirelings of the Corporation? Well, Sir, English is not my mother tongue, but I think I have got as good repertoire of vituperative words as any other people, but I challenge anyone to say if I have ever used one word of abuse against any member of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid I have to oppose this amendment. Dr. Sen Gupta has said that if this amendment is not accepted, the work of the Corporation would become impossible and the legal expenditure of the Corporation would terribly increase. As I have already said more than once, it is not a new machinery which we are introducing: it is no novel creation of the Government of Bengal. We have simply copied such provisions as they exist in other countries and in other provinces of India. If they have worked quite satisfactorily in Bihar and Orissa, in Madras, in the United Provinces, in Assam and in Bombay, I see no reason why

they should not do so in Calcutta. Sir, as Mr. Townend very clearly explained, this provision has been put in only in the interest of persons who might not be supporting an illegal expenditure. In Bihar and Orissa, the auditors did surcharge jointly and severally all Commissioners of Municipalities irrespective of the fact whether they supported an illegal expenditure or not, just to avoid such misapprehensions and to remove all room for doubt that this explicit provision was put in and the Select Committee agreed to retain it. I hope the House will also agree to do so.

Babu Kishori Mohan Chaudhuri's motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 11, in proposed section 123B(2), in line 9, after the word "deemed" the words "unless he can show that he acted with due care and attention" be inserted.

I submit, Sir, that in addition to the arguments just put forward by Dr. Sen Gupta against the generality of the clause, the addition of these words would show that people would not be harassed unnecessarily for any votes that they might have given. You will see that by this addition I am placing the onus upon the particular Councillor or Alderman to show that he has acted with due care and attention. If he can show that he acted with due care and attention, why then compel the auditor to surcharge him and not allow him to take into consideration the proof that the particular Councillor or Alderman did the thing with due care and attention? It has just been pointed out by the Minister in charge of the Bill that in other countries and provinces similar provision for surcharge exists. I am not familiar with the Acts and rules of other places nor am I familiar with English laws. But in Madras this provision has been introduced not only in the Madras City Municipality's Act but also in the Madras District Municipalities' Act and there is this great distinction between the Madras Corporation and the Calcutta Corporation, namely, that the Madras Corporation has certain grants made to it by the Local Government and the Chief Officer is appointed by the Local Government and in a case of that description it must be one of the primary duties of the Government to see that its own funds are not frittered away. As I said, I am not quarrelling with the principle of surcharge: what I do say is—why should a person, if he can show to the auditor that he acted with due care and attention, be compulsorily surcharged and the auditor given no discretion to excuse him? I submit, Sir, that the introduction of these words will not harm anybody and will not militate against the principle of the Bill except perhaps that it is proposed from this side of the House there can be nothing against it. In these circumstances I submit that there is no reason why my proposal should not be accepted.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, in the proposed section 123B(*2*), in line 11, after the words "motion or resolution," the following words be inserted, namely:—

"knowing that the expenditure authorised by the resolution was illegal or without a *bonâ fide* belief in the legality of such expenditure."

Sir, I have already submitted my reason for moving this amendment. At least this is the least that Government can do. I have pointed out that the only thing wanted in order to surcharge a Councillor or an Alderman or a member of a Committee is that he should have voted for the motion, although he might have done it in good faith according to his own light and according to the interpretation of the law on his own behalf. It has been answered that this clause is taken from an English Act where it has been operating for a number of years and no difficulty has been experienced. I do not pretend to have the same extensive knowledge of local administration in England that the Hon'ble Minister has; but I was looking up section 247 of the Act to which reference has been made, namely, the Public Health Act of 1875 (38-39) Vict. Cap. 55. Sir, the clause relating to surcharge there is this: "Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made." And the subsequent clause provides that "any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a *writ of certiorari* to remove the disallowance into the said Court, in the same manner and subject to the same conditions as are provided in the case of disallowance by auditors under the laws for the time being in force with regard to the relief of the poor; and the said Court shall have the same powers with respect to allowances, disallowances and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors; or in lieu of such application any person——

Mr. H. P. V. TOWNEND: It is very interesting, but is it relevant?

Dr. NARESH CHANDRA SEN GUPTA: I suppose Mr. Townend will have to take some lessons in the law of relevancy. There is not

one word in this section with regard to surcharge against Councillors, Aldermen or members of the Committee who merely vote. They are only liable if they have authorised the making of an illegal payment. The interpretation put upon the whole clause is that a person who *bonâ fide* gives a vote is not responsible for it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Is that his own inference or is he reading that from the Act itself?

Dr. NARESH CHANDRA SEN GUPTA: I am reading the section as a whole. A person is only liable if he makes an illegal payment or authorises an illegal payment. In the case of companies it has been held that a person who gives his vote *bonâ fide* is not liable. I challenge the Hon'ble Minister to deny that by reference to the authority of the cases. Upon what principle does he make a person liable who gives his vote *bonâ fide*? There have been about a hundred statutes passed in India in favour of a person who acts *bonâ fide* in the discharge of his public duty. Every Act which gives such power has an indemnity clause, but you deny that to the Corporation. You will put them to the expenditure of going up to the Court or to the Local Government merely because of the certificate of the auditor.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 11, after proposed section 123B (2), the following be added, namely:—

"Provided that a person who voted for the motion or resolution in good faith shall not be held liable for the expenditure."

Section 123B (2) says that any Councillor, Alderman or Member of a Committee present at a meeting at which a motion or a resolution is passed authorising expenditure which is subsequently disallowed under this section or authorising any action which leads to expenditure afterwards so disallowed, shall be deemed to be a person authorising the illegal payment if he votes for such motion or resolution and all persons so voting shall be held jointly and severally responsible for the expenditure.

Sir, as it is the firm determination of Government not to change a single word, even a comma, to the Bill as it emerged from the Select Committee, it would be useless for us to move these amendments.

Sir, it is not difficult for me to foresee the fate which awaits this amendment. It would be sheer waste of time of this House to speak at length in its support. But I think I shall be failing in my duty if I do not point out that a provision like this is necessary to safeguard the interests of those who act *bonâ fide*. My friend, Rai Dr. Haridhan Dutt Bahadur, has raised the question as to how good faith can be

ascertained. I am sorry for the Rai Bahadur for his inability to distinguish between good faith and bad faith. To err is human. There may be honest mistakes, but to penalise him for that would be preposterous. There must be some exception to the general rule in the case of those who act *bonâ fide*.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I think that there is a good deal of force in the objections which are embodied in these amendments. I feel that the section, as it is, may become dangerous in the case of members who may inadvertently or without proper knowledge as to the legality or otherwise of a particular item vote for the sanction of such item. There ought to be some sort of safeguard against *bonâ fide* action which I am afraid is absent from this clause. What form that particular safeguard should take I cannot say, but I feel there ought to be some sort of safeguard for *bonâ fide* action of a Councillor who probably does not realise the effect of his voting. For this reason I feel that perhaps it would be better if we support motion No. 194.

Rai Bahadur Dr. HARIDHAN DUTT: Just before Khan Bahadur Momin spoke on this question I was trying to find out how to meet some of the points raised by the movers of these amendments. I am also disposed to think that there is some force in the arguments put forward in connection with these amendments. In this connection I would ask the Hon'ble Minister what is our experience in the Corporation. Very often we have seen that Committees meet and a number of members are present and the voting generally does not take place individually, but proposals are either carried or rejected and are recorded as such. The names of the voters in the Committee proceedings are very seldom noted. In the Corporation generally when important things are discussed and polling is demanded, then there is a record of individual members voting. But here I find that any Councillor, Alderman or member present at a meeting in which a resolution is passed is liable to be penalised, if the auditor disallows a particular item. May I ask the Hon'ble Minister to tell us how to find out who voted for the expenditure in question? It will make the whole thing complicated. Therefore, I am disposed to think that in this case when we are considering section 123B (*2*), it would be desirable if we can accept something out of these amendments, and so far as I have been able to make out, there seems to be no serious objection to have the language of the amendment altered, the principle being that any person who voted in good faith should not be held liable. I would ask the Hon'ble Minister whether he cannot accede to our request.

Khan Bahadur Maulvi AZIZUL HAQUE: I very seriously bring to the notice of the Hon'ble Minister that very great difficulty would

be created by the acceptance of this section as it stands in the Bill, as the members will have to call for the minutest details and all papers in connection with any measure affecting the finances of the Corporation, and I think the administration of the Corporation will come to a standstill. I feel that if this section is accepted, nothing can be done expeditiously and things will be held up indefinitely. It is necessary to safeguard the people who act in good faith. There is a difference between the Calcutta Corporation and the Bombay Corporation. In Bombay the Chief Executive Officer is a man who is appointed by Government and is a member of the Indian Civil Service, and I know that measures relating to finance are very carefully scrutinised by an independent official. But here unfortunately he is not an independent officer but an officer of the Corporation. Supposing a measure is sanctioned and later on it is found that the Corporation has suffered simply on account of the negligence of certain members who voted in good faith for the measure. Is it desirable that they should be penalised? Something should be found out on the lines of the motion of Munindra Deb Rai Mahasai with a view to safeguard the interests of such members who did not scrutinise the measure before voting for it. In that view I feel that the Hon'ble Minister will be pleased to consider the matter very carefully and find out a solution.

Mr. K. C. RAY CHOWDHURY: I am not one of those loophole-seeking lawyers, but common sense tells me that the auditor, if he gets an explanation from the person concerned that he acted *bonâ fide* and in good faith, will surely let him off.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I may explain the position. I quite realise the apprehension in the minds of my friends opposite, but as I said that if this amendment is accepted or if the suggestions of the Rai Mahasai that anyone voting in good faith should be exempted or that of Dr. Sen Gupta about *bonâ fide* belief is accepted, the whole clause about the surcharge would become quite ineffective and it would be placing undue responsibility on the auditors. The principle of the Bill is that the auditors should have no responsibility and would go on surcharging without any discretion; the discretion is left to the Local Government. The Local Government, if they find that a particular person voted on *bonâ fide* belief or in honest discharge of his duty, certainly the Local Government would condone or exempt him; but if this discretion is left to the auditors, the auditors will be elevated to the position of judicial authorities instead of being purely executive officers as they are now proposed to be. Moreover, this principle has been working quite satisfactorily in other provinces and in Great Britain. In Great Britain, I would remind hon'ble members, specially the members of the Select Committee, who had any

doubt on this point, that this is exactly the language of the English Act. No discretion is left to the auditors. The auditors, the moment they find that a particular expenditure has been sanctioned illegally, must surcharge, and it is for the Government to go into the question of good faith or *bonâ fides*, and to condone or not to condone. So if either of these expressions is introduced into the Act, then the whole provision about surcharge will become quite ineffective, and it will leave a considerable loophole.

Dr. NARESH CHANDRA SEN GUPTA: May I know to which English Act the Hon'ble Minister is referring?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am referring to the English Act of 1875, from which Dr. Sen Gupta himself quoted a few minutes ago.

Dr. NARESH CHANDRA SEN GUPTA: But is there anything about Aldermen there?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No. We want to be more specific and we did so, just to make it clear that persons who have not voted will not be liable to surcharge, because in Bihar and Orissa persons not voting were surcharged; it has just to remove a similar doubt here that this provision was specifically put into this Bill. So we have followed exactly the English statute and other provincial statutes.

Dr. NARESH CHANDRA SEN GUPTA: But not the English statute.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly. It is rather an improvement on the English statute, if I may say so, because it makes the position clearer. (Cries of: "You have followed it blindly.") I would warn the hon'ble members and specially those who were members of the Select Committee, and who may now think that this clause may give rise to difficulties in its working as it stands, that if we introduce these words the whole clause will become ineffective and lawyers will find considerable loophole in it, so that the whole machinery will collapse. If it is the intention of the House that there should be provisions for surcharge for illegal expenditure I would ask it not to be misled by my friends opposite.

Khan Bahadur Maulvi AZIZUL HAQUE: May I suggest if it would be possible to give the clause a modified form as follows, namely, provided it should be open to the Local Government not to hold liable

to surcharge any expenditure if any person votes for a certain motion in good faith? This would make it quite clear. I quite realise that the Local Government have the power but whether it would be possible for this House to give it in a statutory form.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not see any objection, because that is the sense of the clause, and if the House wants to make it clear in that way I have no objection.

Mr. PRESIDENT: Will Khan Bahadur Maulvi Azizul Haque please repeat his suggestion?

Khan Bahadur Maulvi AZIZUL HAQUE: It is this: Provided that the Local Government shall not hold liable for expenditure any person who votes for a motion in good faith.

Mr. SHANTI SHEKHARESWAR RAY: Who is to judge of his good faith? (Cries of "Government surely.")

Rai Bahadur KESHAB CHANDRA BANERJI: May I rise on a point of order, Sir? The suggestion thrown out by the Khan Bahadur is practically identical with the one moved by Rai Mahasai.

Mr. PRESIDENT: Well, you cannot expect me to pronounce an opinion on that. It is for the House to judge.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I say, Sir, that I am prepared to consider the amendment suggested by Khan Bahadur Maulvi Azizul Haque——

Mr. NARENDRA KUMAR BASU: But Sir, we have just been told that the Hon'ble Minister accepted it, not that he is merely prepared to "consider" it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I hope my hon'ble friends will not misunderstand me. I have accepted the principle only, but actual drafting still remains to be done.

Mr. PRESIDENT: What is the principle?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The principle is that the Local Government will condone a person if he has been surcharged wrongly; provided of course the Local Government is satisfied about that person's acting in good faith.

Khan Bahadur Maulvi AZIZUL HAQUE: May I suggest, Sir, that this matter may be taken up after the first prayer adjournment?

Mr. PRESIDENT: All right. I agree.

(The Council was then adjourned for 15 minutes.)

(After adjournment.)

Mr. PRESIDENT: Is the amendment ready?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the draft is being made by the Secretary of the Legislative Department, and we may go on with the other clauses now, and in the meantime the draft will be ready.

Mr. PRESIDENT: Then you want this to be left out for the present. We were dealing with amendments Nos. 188 and 194.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, for the time being.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, in the proposed section 123B(5), in line 2, after the word "motion," the words "or on the application of any person affected by the order" be inserted.

I do it in spite of the provision of section 123C for the application by a person to Government for this reason. This sub-clause (5) is very extensive. It gives the Local Government power within one year after receiving the copy of the certificate to set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor." This is a very extensive power and Government may do it for any reason they think fit. But the clause in section 123C says, "in lieu of such application to the Court such person may appeal to the Local Government who shall pass such orders as they think fit." The appeal to the Local Government restricts the powers of the Local Government because upon an appeal, strictly speaking, the Local Government may not set aside the surcharge unless the order for surcharge was illegal or improperly made. At any rate, it is open to the suggestion that when a surcharge has been made by the auditor legally or lawfully, the Local Government on appeal cannot set aside the order, whereas under section 123B(5) the Local Government have got power to set aside the order of their own motion on any ground. Therefore, I want to put in after the word "motion" the words "or on the application of the person affected by the order." I may mention in this connection that in regard to the last words of section 123C—I have got an amendment with reference to which I shall speak later on—but the suggestion is independent of that. If the section remains as it is,

there is no harm in giving the Local Government power to set aside the order upon any ground whatsoever on the application of the person concerned.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because there should be a distinction between section 127B (*5*) and section 123C. In fact, the Select Committee wanted to stress the point and therefore put in the words "on their own motion." I do not see why it should not be accepted. Because there is a distinction between section 127B(*5*) and section 123C where the wording is that the Local Government may modify it of their own motion that this distinction should be maintained.

The motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 11, after proposed section 123B(*5*), the following be added, namely:—

"*Explanation.*—The Local Government may pass such orders notwithstanding any orders passed by the Civil Court under section 123C."

As we have just been told under section 123B (*5*), the Local Government may act on their own motion and under section 123C the person aggrieved may appeal either to the Civil Court or to the Local Government. Supposing the person aggrieved appeals to the Civil Court and the Civil Court finds that it ought to be held back, I want to give the Local Government power of their own motion to set aside or modify the surcharge.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The clause is wide enough and I do not think that any explanation is at all necessary. Generally, of course, the Local Government will not interfere if the matter is brought to the Civil Court. I think this is a very salutary principle and the Local Government should stick to it. If a person wants to go to the Civil Court, I see no reason why the Local Government should stop him. I do not think that there is any necessity for the change.

Mr. NARENDRA KUMAR BASU: Ordinarily not, but in exceptional cases the Local Government may have to do it.

The motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 11, for proposed section 123C, the following be substituted, namely:—

"123C. Any person affected by an order passed under section 123B, sub-section (*1*) may, by an application made within three months after he has been served with a copy of the order, ask that the question of his

liability to the surcharge, disallowance or charge be referred for decision to the Civil Court, and thereupon the Local Government shall within one month from the date of receipt of such application by an order in writing stating the facts of the case and the question to be decided refer the question for decision to the Court having local jurisdiction over the subject matter of the dispute or over the person surcharged or charged. Such order of reference shall be deemed to be a plaint, and the Local Government shall be deemed to be a plaintiff and the person against whom the surcharge has been made shall be deemed to be a defendant, within the meaning of the Code of Civil Procedure, 1908."

Also to move that in clause 11, in proposed section 123C, in lines 13 to 17, the words beginning with "or in lieu of such application" and ending with "shall be final," the following be substituted, namely:—

"And any such person may also apply to the Local Government to take action under section 123B, sub-section (5) and, where such an application is made the time between the date of such application and the final order of Government thereon shall be excluded in computing the period of three months allowed under this section for applying to the Civil Court."

Also to move that in clause 11, in proposed section 123C, for the Explanation, the following Explanation be substituted, namely:—

"*Explanation.*—An application made under this section to the Court shall be deemed to be a suit within the meaning of the Code of Civil Procedure, 1908."

Sir, together these three amendments constitute one whole scheme. In the place of the present section 123C I want to substitute a different procedure: the matter remains the same. If there has been a surcharge, the matter may go to the Government or to Court and the Court or Government will have power to consider the matter. The difference lies in the procedure. Under the proposed section if the certificate has been made, within three months after that any person against whom it has been made may apply to the Civil Court to set aside or modify the order, and in that case the Civil Court's power is final. My proposal is that in a case where a certificate has been made, the person who is affected may ask for a reference to the Civil Court and in that case when he asks for a reference, a reference will be made to the Civil Court and it will be heard as a suit. The difference between the two procedures is practically the difference between the Public Debts Recovery Act and the Income Tax Act. Under the Public Debts Recovery Act the certificate is made by the Collector and if a person wants to have the certificate set aside, he has to go to the Civil Court whereas under the Income Tax Act the assessee in such circumstances

asks for a reference to the High Court in which case the reference is made to the High Court and heard there. The difference is not immaterial. In the section as it now stands, the person who makes the application to the Civil Court goes there as a sort of plaintiff. The burden is on him to prove that the surcharge is wrong. In a case of reference he would not be in such a position. It would be necessary for the auditor to justify the surcharge, and it will be necessary for the party surcharged to show that he has not been rightly surcharged. I think in a case like this the procedure analogous to that in the Income Tax Act is better than the procedure in the Public Debts Recovery Act.

Then I come to the other portion of section 123C. The proposed section provides that in lieu of such application to the Court any such person may appeal to the Local Government. As the Hon'ble Minister has very lucidly pointed out, this appeal to the Local Government and the powers exercisable by them under it are distinct from the powers exercisable under sub-section (5) of section 123B. The Local Government will only see whether the order of surcharge is illegal or not, whether the circumstances justify the making of the surcharge, whereas under sub-section (5) of section 123B, the Local Government exercises extensive power on any ground of expediency or otherwise. I do not want that this appeal to the Local Government should be in substitution for an appeal to the Civil Court. The appeal to the Civil Court may be left as a last resort. In the meantime an appeal to the Local Government may be made. Here I am relying on the precedent of certain proceedings in revenue courts. When, for instance, a sale has been held under the revenue sale law, there may be an application to the revenue authorities—to the Divisional Commissioner—to set aside the sale. If he sets aside the sale well and good; if not, then the party may appeal to the Board of Revenue. When the Board of Revenue has refused to set aside the sale, then the party has got the right to go to the Civil Court. What I propose is that the same procedure should be adopted here. The executive authorities should first be exhausted before the matter goes to the Civil Court. Before the action of the executive officer comes to be adjudicated upon by the Civil Court, the Local Government should have the authority of exercising their own judgment on it. That is the opportunity which is provided in the amendment I propose and it is this: Instead of saying "in lieu of such application to the Court any such person may appeal to the Local Government," I say "And any such person may also apply to the Local Government to take action under section 123B, sub-section (5), and, where such an application is made, the time between the date of such application and the final order of Government thereon shall be excluded in computing the period of three months allowed under this section for applying to the Civil Court."

The essential thing remains the same, only there is a difference of procedure, and I submit that the procedure I have submitted is assuredly better. Instead of rushing to the Civil Court at once, the Local Government should have an opportunity of looking into the matter. In my proposed section 123C, first part, I have said that when a reference has been made the reference shall be deemed to be a plaint, and the Local Government shall be deemed to be a plaintiff. Accordingly, I suggest the explanation as in amendment No. 208. I say "a reference under this section to the Court shall be deemed to be a suit within the meaning of the Code of Civil Procedure, 1908." The House will notice that the explanation as it stands is only a provisional explanation. It is only trying to circumvent the limitation on our legislative powers. We have no power to legislate so as to affect the jurisdiction of the High Court. That being so, Civil Court means the High Court of Judicature in Fort William of Bengal and unless and until the High Court is so empowered, such matters will have to be referred to the Small Cause Court. The Small Cause Court is in a sense an unsuitable place where questions arising out of surcharge can be adjudicated. Therefore I do not want that the Small Cause Court should have power to deal with these matters. On the contrary, if you accept the explanation which I suggest, it gives a legal right to a person to sue and so soon you give him that power, he has the power to go to the High Court without the Legislature affecting the jurisdiction of the High Court; or if it is the case of a person living outside the jurisdiction of the High Court, for instance Bhowanipore or some such place, he goes to the Civil Court having jurisdiction, namely, the Civil Court of the 24-Parganas. Therefore, this explanation makes it unnecessary for us to resort to the devious process of legislating for going to the Civil Court. I submit, Sir, if the House will carefully consider the provisions of the amendments I have moved, in the light of the explanation that I have given, the House will find that this is a more elegant piece of legislation than the proposed section 123C. The essentials are all there and no safeguards have been taken away, and I have provided altogether a more satisfactory procedure.

Rai Bahadur KESHAB CHANDRA BANERJI: In moving the amendment Dr. Sen Gupta has said that he is going to introduce a new principle. So far as that question is concerned, may I inquire whether we can at this stage introduce any new principle?

Dr. NARESH CHANDRA SEN GUPTA: On a point of personal explanation, Sir. I said just the reverse, it is not a new principle at all.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, some of the clauses of the Bill as drafted are already complicated enough and I

have great doubt as to the workability of some of these sections. Dr. Sen Gupta's amendments are also complicated to a degree, and I think if these are accepted, it will render confusion worse confounded. I, therefore, oppose the amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I must oppose all these three amendments. The procedure which Dr. Sen Gupta has suggested I may describe it as hybrid. The procedure which is laid down in the Bill is quite simple. It is a tried one, and it finds place in the English statutes as well as in the statutes of other Indian provinces, namely, the person aggrieved has the right of appeal to the Civil Court and in the alternative to the Local Government. Dr. Sen Gupta suggests that there should be a reference on application to the Civil Court and the Local Government would practically be in the position of a defendant. That means the Local Government would be saddled with costs. Why should it be? If the person aggrieved feels that he has been improperly treated, the best course for him would be to go to the Civil Court. If he thinks it would be cheaper, he can appeal to the Local Government. He has the alternative procedure of appealing either to the Civil Court or to the Local Government. The procedure is a well-recognised one, and it has worked satisfactorily in England and in other provinces.

Dr. NARESH CHANDRA SEN GUPTA: May I ask the Hon'ble Minister if the Income Tax Commissioner makes a reference to the High Court if saddled with costs?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not know.

Dr. Naresh Chandra Sen Gupta's motions were then put and lost.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 11, in proposed section 123D (*1*), in lines 1 and 2, the words "notwithstanding any application or appeal that may be made under section 123C" be omitted and in line 12, after the word "auditors," the words "or after disposal of the application or appeal referred to in section 123C" be inserted.

Sir, I can assure the House that it is not an amendment for amendment's sake. In my opinion it attacks the very principle of law and procedure. What is laid down in the Bill is that notwithstanding any application or appeal that may be made under section 123C, etc., the amount charged may be realised from the unfortunate person who has to bear the burden. So far as we know, the principle of law militates against such a rule as is embodied in the sub-clause. It has been said that this Bill is practically a copy of the British Act. I, therefore, think, it worth while to refer for a moment to the British Act. I find

in Victoria 30 and 39 a contrary rule is laid down—a very contrary thing is laid down in this particular clause, and there is an explanation forthcoming for that. This will appear extraordinarily hard when we remember that the amount of surcharge on the members of the Committee or persons authorising certain payments may be a very large amount, may be several thousands or lakhs of rupees. Under the circumstances, if that particular person, after he has filed an appeal, has to pay the amount, I submit it would appear to be nonsense. I think very little need be said in support of my amendment. I leave it to the House whether we should be a party to a provision like this. It means practically a negation of common sense and a negation of legal propriety. With these words I commend my motion to the acceptance of the House.

Mr. B. C. CHATTERJEE: Sir, I have been loath to speak on this Bill up till now, because I felt that not having had the opportunity of studying the Bill, as I was away, I had no title to speak before the House. But this is a matter that hits one in the face, if I may say so. I submit that one need only read the section to discover the untenability of the provision against which my friend has protested. You first provide for the appeal, then you provide for the sum due to be recovered notwithstanding the appeal, and then when the person is acquitted on appeal you provide that the sum should be refunded. I ask the Hon'ble Minister to say which is the simpler procedure, to allow an appeal, to levy the sum during the pendency of the appeal and then to give it back to the person if he has won the appeal or to let him go until the appeal is finally decided. Surely, Government must be reasonable. I understand that this Act is based on the English Act. Mr. Satish Chandra Ray Chowdhury has pointed out that the English Act contains a contrary provision. The provision contained therein seems to be in consonance with ordinary common sense and all sense of fairness. Therefore I ask the Hon'ble Minister to withdraw this clause and accept the amendment. Certainly he has got a very powerful support behind him, and he can carry anything in the teeth of opposition, but as this is absolutely contrary to reason, I hope he will act to our suggestion and accept this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid I have to oppose this amendment. Mr. Satish Chandra Ray Chowdhury tried to justify his amendment on the ground that it is contrary to the procedure of Law Courts, namely, that when there is an appeal the execution should be stopped. I have yet to learn that the moment one files an appeal, the execution is automatically stopped. That is never the case. Moreover, in this case the application would be made

in the Original Side of the High Court, and I understand it is the usual practice that when one files an appeal and wants to stay the execution, the party praying for the stay of the execution is asked to make a deposit or to furnish a security of a heavy amount which is often more than the value of the suit.

Maulvi SYED MAJID BAKSH: What is the order?

The Hon'ble Sir PROVASH CHUNDER MITTER: Order No. 41, Rules 45 and 46.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Moreover, there is the provision for refund. If the appeal succeeds, the money will be refunded. So, it makes no substantial difference so far as the appellant is concerned. It will be a more effective provision, because it will stop frivolous appeals and there will be less delay in disposing of matters. It is certainly in the public interest that when there is a surcharge, the money should be realised without unnecessary delay. On these grounds I oppose it.

Babu Satish Chandra Ray Chowdhury's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chattarjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Paddar, Seth Hunuman Prosad.
Quasem, Maulvi Abul.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth Mr. C. G.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. R. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Cohen, Mr. D. J.
Dain, Mr. B. R.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. R. B. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawaaz, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildar.

Ghehar ali, Mr. R. H.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Hogg, Mr. G. P.
Hooper Mr. G. S.
Hossain, Nawab Musharraf, Khan Bahadur.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzem Ali.
Khan, Mr. Razaur Rahman.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Miller, Mr. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mullick, Mr. Nuhunda Sohary.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhary, Mr. K. C.
Ross, Mr. J. B.
Ray, the Hon'ble Sir Bijoy Prosad Singh.
Roy, Babu Harihansa.
Ray, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Sandatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Serker, Rai Sahib Rohoti Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Girin Chandra.
Steven, Mr. J. W. R.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 22 and the Noes 64, the motion was lost

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 11, section 123D(*1*), in lines 1 and 2, for the words "Notwithstanding any application or appeal that may be made" the following words be substituted, namely:—

"subject to any order which may be made by the Court or the Local Government on an application."

The Hon'ble Minister has made my task somewhat easier by giving an exposition of the procedure in Courts, which is partially correct. Sir, when a suit has been decreed in the Lower Court and the matter goes on appeal to a Higher Court the execution of a decree is not stayed forthwith but the Appellate Court has got the power to stay the proceedings in execution on such terms as it thinks fit. On that analogy, when there is an appeal before a Court, it stands to reason that the Court should have the authority to stay the execution if it thinks fit and on such terms as the giving of security or otherwise as the Court thinks fit. That power is allowed even in the case of appeals, as the Hon'ble Minister has explained. I am providing that where the matter goes to a Court, the Court should have the power to stay the proceedings if it thinks fit. If the Court does not stay the proceedings, then this clause comes into operation, and then the money will be recovered in 3 months by certificate. If the matter does not go on appeal to the Court but to the Local Government, the Local Government should have the power to stay proceedings but the section as it stands admits of no stay. The law here is as inexorable as the fates.

The moment a certificate has been made, within 3 months that money has got to be paid to the Chief Executive Officer and no power on earth can stop it, not even the Local Government, unless the Local Government chooses to accept my amendment.

The Hon'ble Minister has made one mistake, while speaking on the last motion, which I ought to point out. He said that if we go to the Original Side security will have to be given according to the rules of the Original Side. I do not doubt that if you accept my amendment the Court will ask for security to be given. But he makes one mistake and that is this: if the matter goes to the Original Side (as it is not provided yet, and until the Government of India have legislated it does not go to the Original Side) it does not go as an appeal. Therefore, the provisions relating to appeals do not apply to this application, which will be an application, on summons it may be, or on a notice of motion. In that case no question of security arises. Therefore the Court may very well stay the execution either on security being given or without any security, and the Court certainly has the power, when the matter comes up before it, the Court has the jurisdiction under the law, to issue an injunction upon any party, the auditor or the Chief Executive Officer, as the case may be. It has got the power to issue an injunction to restrain the realisation of that amount. This clause seeks to take away that power from the Court. I do not know, if that is what is meant—that the Court should have no power to issue an injunction, that this clause is *intra vires* of this House without the special sanction of the Governor General. I take it, therefore, that it is not contemplated that any jurisdiction of the Court is sought to be affected. If you want to leave the jurisdiction of the Court intact to issue an injunction, you cannot do so in spite of this section. Therefore this clause "notwithstanding any application" and so forth will simply create complications in the law, conflicts in the existing power of the Court and special powers provided by this clause. Then again there will be another difficulty unless you accept this amendment. The Hon'ble Minister was pleased to characterise one of my motions as a hybrid motion, but if he looks to this clause of his, he will find that it is a worse hybrid than mine, a more monstrous hybrid than ever was contemplated by me. It is this: The clause as it originally stood provided that any sum certified to be due from any person by the auditors under this Act shall be paid by such person to the Executive Officer within one month after he has been served with the certificate of the auditors or within such longer period as may be allowed by the Local Government, etc. Well, that would be a perfectly cogent and reasonable thing, to which no exception could be taken. That was one of the sources, one of the parents of this clause as it stands, but another parent intervened, and the Select Committee has introduced the words "or if the certificate has been modified under section 123B (*5*) or under

section 123C, the sum shown to be due from such person in the modified certificate." Now, what happens if the appeal is made to the Local Government or to the Court, and the matter is not decided within 3 months but an order is passed in a modified certificate after 4 months this section then becomes inapplicable. How is the money which becomes due after 4 months of a certificate to be paid within 3 months of the certificate? That is a mathematical problem which ministerial intelligence alone will be able to solve. Therefore, if you want to keep the clause as it is the words "notwithstanding any application or appeal that may be made under section 123C" is absolutely irrational. It cannot exist there and it makes the whole thing nonsense. Therefore, the only possible thing that can be done is to accept my amendment. So that this liability to pay money within 3 months shall be subject to any orders which may be passed by the Court on appeal, or by the Local Government on appeal to it. In either case it will be for the Court, or the Local Government, as the case may be, to decide whether the realisation of the amount is to be stayed or not. It is the plainest common sense to say that, and contrary to common sense to put in the clause as it is, and ask the Court and the authorities and the Chief Executive Officer to recover the surcharge from persons who are at fault. In that case the clause will be absolutely meaningless.

Maulvi SYED MAJID BAKSH: I would not have interfered in this debate had not a legal proposition been propounded by the Leader of the House.

The Hon'ble Sir PROVASH CHUNDER MITTER: What I propounded has nothing to do with this, and that also I did not say in the House.

Maulvi SYED MAJID BAKSH: It does not matter whether he said that in the House or elsewhere. The Leader of the House ought to have some patience while I am reading from the Civil Procedure Code——

The Hon'ble Sir PROVASH CHUNDER MITTER: I did not take part in the debate——

Mr. PRESIDENT: I do not know what Sir Provash said outside the Council Chamber. It cannot be made an offshoot of our debate. Maulvi Sahib, you should not refer to that.

Maulvi SYED MAJID BAKSH: All right, Sir. I shall read out the section of the Civil Procedure Code in relation to the amendment that has been moved.

Mr. PRESIDENT: Yes, if it is relevant.

Maulvi SYED MAJID BAKSH: It refers to the stay of execution without making a deposit.

Mr. PRESIDENT: I take it that you are speaking on the motion itself without taking into consideration Sir Provash's remarks of which I have no direct knowledge.

Maulvi SYED MAJID BAKSH: I hope when I read out the section, advantage can of course be taken by persons who require it. I am reading from Order 41, Rule 5——

The Hon'ble Sir PROVASH CHUNDER MITTER: Order 41, Rule 5, relates to the Chapter on Appeals. We have nothing to do with appeals in this debate at this stage. Order 41, Rule 5, deals with appeals filed against the decision of a Lower Court. We are not debating the question of appeals against the decision of a Lower Court. Therefore, my submission to you, Sir, is that any reference to Order 41, Rule 45, is not relevant to the subject matter of the present amendment.

Maulvi SYED MAJID BAKSH: The Hon'ble Member quotes Order 41, Rule 45, but Order 41 contains only 37 rules.

Mr. PRESIDENT: Maulvi Sahib, could you deny that the section you are about to read does not really refer to appeals against the decision of Lower Courts? Is it or is it not a fact that it does?

Maulvi SYED MAJID BAKSH: I shall point out to you, Sir, that whenever there is an appeal, there is ample provision in the Civil Procedure Code to which a reference was made by the Hon'ble Minister——

Mr. PRESIDENT: Will you please take your seat, Maulvi Sahib? When the President rises to address the House, you must take your seat. The point is whether the words that the Hon'ble Sir Provash might have mentioned casually are still ringing in your ears. There can be no occasion for you to read Order 41, Rule 5, because that relates to appeals against Lower Courts and we are not discussing any such matter at the present moment.

Maulvi SYED MAJID BAKSH: But the Hon'ble Minister has just said—I am not going to mention from whom he has taken the cue—that deposit is necessary in the case of an appeal to stay execution, but I shall show that the deposit is not necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: But I did not say that on this motion, but on another motion.

Mr. PRESIDENT: Will you please let me know what you actually said? Did you say that deposit was necessary in the case of the stay of execution?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I never said that. I only wanted to say that the Court could ask for a deposit in the case of an appeal.

Mr. PRESIDENT: But you did say that.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, but nothing directly.

Maulvi SYED MAJID BAKSH: There is Rule 5, Order 41, and I am reading the first portion which is very enlightening, so that many persons who had not read that section may have some idea of the law. It runs thus: "An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.

(*2*) Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.

(*3*) No order for stay of execution shall be made under sub-rule (*1*) or sub-rule (*2*) unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(*c*) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him."

It will be quite clear, Sir, that security is different from deposit; that is what I submit. It is security which has misled my friends and it is not deposit. Then comes sub-section (*4*), which runs thus:—

"Notwithstanding anything contained in sub-rule (*3*), the Court may make an *ex parte* order for stay of execution pending the hearing of the application."

Then there is another section which has been lost sight of, and it is Order 21, Rule 26, which says—

"The Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree." So, there are ample provisions for both the Appellate Court as well as for the Court which passed the decree, as soon as there is an appeal. The provision is very wide in the Civil Procedure Code which is not so narrow as the other legislations. The Court to which a decree has been sent for execution shall upon sufficient cause being shown stay the execution of such decree for a reasonable time to enable the judgment debtor to apply to the Court before filing any appeal whatsoever under Order 21, Rule 26. The defendant may apply to the Court that he is going to appeal, and the Court will stay execution by taking proper security which might have been made by such Court of first instance or Appellate Court if execution had been issued thereby. Before making an order to stay execution or the discharge of the judgment debtor, the Court may require such security from or impose such conditions upon the judgment debtor as it thinks fit."

I had no mind to interfere in this debate, but when I found that law was being deliberately misexplained and misrepresented in this House, I felt myself compelled to interfere, and I hope people who want to interfere in matters of law which we deal with daily and have not dealt with 25 years before, must do so with the sense of apprehension that they may be caught napping, and these are the persons who are as innocent of law as their orderlies. They should not interfere in these matters in this House at all.

The Hon'ble Sir PROVASH CHUNDER MITTER: I desire to take part in the debate. In spite of the language used by Maulvi Majid Baksh, let us try to approach the question without heat. Order 41 is headed thus—"Appeals from original decrees." Rules 5 and 6 of Order 41 are under the sub-headings "Stay of proceedings and of executions." Of that Order 41, Rule 5 says definitely "an appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order——

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Member speaking on the motion or giving another exposition of the section?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am replying to Maulvi Majid Baksh who was speaking on the motion, and I am trying to explain that this interpretation of the law arising out of the motion is according to my humble submission not quite accurate. Order 41, Rule 5, clause (*1*) says "an appeal shall not operate as a stay of proceedings, etc." I would not go into details, and the very

portion of Order 5, sub-rule (3) (c), on which the mover has spoken shows that the security is in contemplation, and Order 21, Rule 26 only authorises that the Court of first instance can rule certain things but it is quite clear that the rules differ. The provisions of the Civil Procedure Code deal with appeals from original decrees of either the First Court which passed the original decree and can take certain steps under Order 21, Rule 26, or the Appellate Court to which the appeal has been filed can also take certain steps, but the real point of difference is that this is not an appeal from an original decree. This is not an appeal from an original decree, that is one point. But if it were an appeal from an original decree, then Order 41, Rules 5 and 6 might have been relevant. Therefore, all this does not arise and it is a question of surcharge. The surcharge is not in that sense a judicial proceedings which is well-established. Beginning from the case of the Privy Council, in order that it should be a judicial proceeding certain steps have got to be taken. We may be absolutely wrong, but that is an aspect of the case to which I would refer my friends, Mr. Narendra Kumar Basu and Mr. Syamaprosad Mookerjee; but I would end by saying that it is not really helpful to the discussion.

Mr. NARENDRA KUMAR BASU: Sir, I would like to point out——

Mr. PRESIDENT: Mr. Basu, this is not a Law Court. (Laughter.)

Mr. NARENDRA KUMAR BASU: The Leader of the House has appealed to me to speak.

Khan Bahadur Maulvi AZIZUL HAQUE: May I put a question to the Hon'ble Minister? What I feel is that under section 123C, a man against whom a surcharge has been made has to go to a Civil Court for setting aside the order of surcharge. It does not pretend to set aside any of the powers vested in Civil Courts That being so, would it be open to the Civil Court to issue an injunction on the auditor or for the matter of that to the officer executing the decree that such and such an order should not be executed?

The Hon'ble Sir PROVASH CHUNDER MITTER: When it comes before Government, Government will take the opinion of their legal advisers.

Mr. H. P. V. TOWNEND: I propose to go back to what was said before the discussion wandered off to a consideration of legal procedure. Of course what has been said about this is quite relevant, but it is perhaps a little removed from the real point under discussion. There are two points which Dr. Sen Gupta labours. He says first that this

clause is unworkable as it stands because unless his amendment is accepted no power on earth can stop the inexorable progress of the machinery of the clause: a man must pay within 3 months or the machinery will go on, whatever be the hardship involved in the case. He has not read the clause. The clause itself says that a man must do certain things within 3 months or within such extra time as Government may allow. So there is a power on earth which can prevent the machinery from going on and there is no need on this ground for Dr. Sen Gupta's amendment. I presume that Dr. Sen Gupta is really arguing that there ought to be some power to stop the section from working at all. That must be his reason for putting in an amendment which would make it work very slowly. Dr. Sen Gupta's main object is to make this machinery work slowly because he wants to have action held up till the lawyers have finished discussing each case in the Courts. He is a lawyer and he likes legal discussions; he has given the House a long legal discussion earlier in the day and he has also given it several other long discussions during the past few other days: and the House has shown what it thought of them by rejecting the amendments which they supported. Dr. Sen Gupta has frequently told us during this debate that he knows nothing about the working of local bodies and he is, therefore, perhaps bringing to bear on questions relating to the working of local bodies his experience of the working of the Law Courts; he wants to have in the conduct of the business of local bodies the same slow deliberation that marks the Law Courts. In this particular case it would be rather disastrous if there was such delay: the deterrent effect of the surcharge provision would be destroyed. Dr. Sen Gupta has told us that he is not satisfied that the clause as it stands is workable: but he has said much the same thing about every clause of the Bill up to now; and it is no good for Government to seek to satisfy him on this clause when he would still be left in a state of such solid dissatisfaction about the other clauses; so we can leave out of account the question of Dr. Sen Gupta's dissatisfaction.

As regards the question whether the clause would allow the issue of injunctions by Civil Courts I am not in a position to speak, but it matters very little. If a Court can issue an injunction and wants to issue an injunction, it will issue the injunction: if it cannot issue an injunction, it will not and no one will be the worse off: the Court will decide on this point. The next point raised by Dr. Sen Gupta was that this clause was a hybrid. He takes exception to the portions added by the Select Committee. He seems to think that because the Select Committee added to the clause as originally drafted, therefore, it must be hybrid.

Dr. NARESH CHANDRA SEN GUPTA: Please understand before you pretend to answer me.

Mr. H. P. V. TOWNEND: If Dr. Sen Gupta wants to convey something which is different from what he actually said, that is another matter. He should have made his meaning clear. I understand him to argue that the clause is hybrid because one part was put in by Government and the other by the Select Committee. If his argument does not bear the meaning I put on it, what meaning does it bear? The question is whether the clause has no meaning or whether Dr. Sen Gupta's remarks have none. I see no objection to accepting the second alternative, because so many of his remarks in the debate have come near to having no meaning that there is no reason for surprise if this one proves to have none.

Dr. NARESH CHANDRA SEN GUPTA: Is he entitled to make such personal reflections?

Mr. PRESIDENT: Well, Dr. Sen Gupta, I heard you flinging remarks at him which you had no business to do.

Mr. H. P. V. TOWNEND: I suppose I have said sufficient to meet the arguments of Dr. Sen Gupta and I do not think that other speakers advanced any other arguments which call for a reply.

The motion was then put and lost.

After Mr. President called on Rai Bahadur Jogesh Chandra Sen to move his amendments, Munindra Deb Rai Mahasai got up to move his amendment No. 211, and remained standing.

Mr. B. C. CHATTERJEE: Sir, the Rai Mahasai is still standing on the burning deck.

Mr. PRESIDENT: You know what fate befell the boy who stood on the burning deck. (Laughter.)

Munindra Deb Rai Mahasai resumed his seat.

Rai Bahadur JOGESH CHANDRA SEN: I beg to move that in clause 11, in proposed section 123D(*1*), in lines 14 to 22, the words beginning with "any such sum" and ending with "by that Court" be omitted.

I also move that in clause 11, in proposed section 123D(*2*), in line 1, the words "or recovered" be omitted.

Sir, it is no good flogging a dead horse, and my reasons are that this clause is a penalty clause. If a Councillor or an Alderman does anything wrong, he will lose his suit; if an officer does anything wrong, he will be dismissed, but this section 123D will not stop here. Persons already persecuted by section 123B will be further persecuted and certificates will be issued against them. Is it fair to flog a dead horse? You dismiss a man and then you give him some other punishment.

The Councillor or the Alderman concerned will be humiliated and the officer concerned will lose his service and after this he is going to be further punished! I submit that this will be the worst form of cruelty possible. I, therefore, suggest that the words that I have mentioned may be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose the amendments. If these are accepted, no means for recovery of the amounts will be left.

Rai Bahadur Jogesh Chandra Sen's motions were then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, proposed section 123E be omitted.

It provides that when in a proceeding instituted under clause 123C the finding is against the auditor and the Court allows costs against the auditor for, say, absolute negligence or misconduct of the auditor, nevertheless it will be the Corporation which will have to pay the costs. If the auditor makes a *bonâ fide* mistake, in that case one can understand that he should be protected. But when the auditor has acted maliciously and the Court has awarded heavy damages against him for that reason, nevertheless it will be the Corporation which will have to pay! This is a clause which does not require arguments to move for its deletion. I could have understood a clause which made the Corporation pay for the cost of the auditors in certain cases and not in others, but the clause as it stands is unqualified. Therefore, it could not possibly be supported on any ground of reason or law or legal principle: but perhaps we are not dealing with a piece of law which has anything analogous to any legal principle. Perhaps what we are dealing with is not a legal proceeding before a Court although it goes to a Court, and after all it is going to be an altogether original production of this Legislature for which there need be no precedent whatsoever. I need not argue further, because arguments are needless and arguments are useless. As Mr. Townend once luminously observed, whatever the strength of our arguments may be, he has 84 or more solid arguments on his side—and they are his votes, therefore further arguments are absolutely useless.

Mr. NARENDRA KUMAR BASU: I beg to support this amendment. It seems to me that it is really whittling down the powers of the Court to which the application is to be made. It is needless for me to say that the Court will not pass an order for costs against the auditors in ordinary cases and the order for costs against the auditors will only be passed by the Court—auditors are public officers—only in exceptional cases. As was remarked a few minutes ago by one of the speakers, in income tax matters costs are hardly ever awarded against

the Income Tax Commissioner, and I think the High Court will be chary of awarding costs against the auditors except in exceptional cases. To say that in those exceptional cases also the cost of the auditors shall be paid by the Corporation is something which is neither logic nor common sense. If it were apprehended that whenever the auditor's decision was set aside by the Civil Court, the Civil Court would grant costs against the auditor then one could have understood the necessity of some provision of that description. But here you are providing that the cost awarded against the auditor in every case must be paid by the Corporation. But why should they pay for the mistakes made by the auditors. If a suit is brought against the auditor in the Original Side of the High Court it will be very difficult for the suing party to fight against him backed as he will be by Government with all its legal advisers in the shape of Advocate-General, Legal Remembrancer and others behind its back, and I say it is very hard lines on the Corporation to make them pay the cost if any is awarded against the auditor. By this clause is not Government encouraging the misuse of Corporation funds? The Corporation has to pay the cost of the party which loses in the suit brought by it against that party. It is strange that such a provision should be sought to be made by Government which professes to be so anxious to preserve intact the integrity of the Corporation funds. Therefore, it is clear that Government itself here is giving license to the Corporation to make illegal payments. They are illegal because the Court has awarded the cost against the auditor and it is hardly in consonance with the principle of the Bill or with any legal principle if the Corporation is made to pay the cost of the auditor.

Mr. B. C. CHATTERJEE: Sir, as a member of the legal profession I find it my duty to enter a protest against this provision in the Bill. It seems to be against all principles of civil jurisprudence. It is impossible to understand why an auditor against whom the High Court has come to such serious decision as to award costs should be considered to have a right *ad libitum* to draw on the funds of the Corporation for paying costs. I can understand if the Hon'ble Minister wants some kind of safeguarding clause like this: that all costs awarded against the auditor on the ground of his own default or laches should be paid by him. I am asking the Hon'ble Minister to make it more clear by providing that where costs have been granted against the auditor except on the ground of his own laches or default, in those instances the Corporation shall have to pay the cost. If Government loses some money on account of some default or laches on the part of its servant, then Government make the servant pay. Similarly, I say that all that the Hon'ble Minister can legitimately ask for is a sort of a safeguard for the auditor who should only be made to pay where the costs have been ordered against him on the ground

of his laches or default. Have some sort of provision like this if you so desire. Surely you are not introducing what used to be considered in the old days as the divine right of kings. We have heard of the doctrine that the king can do no wrong. But surely you are not going to lay down the doctrine that the auditor under the provisions of this Act cannot do any wrong. Surely you are not going to do that. The auditor must be made liable on such occasions on which all other persons occupying the same position as Government servants would be liable. If the Hon'ble Minister sees his way to accept the suggestion that I have made, well and good. Otherwise I think everybody who is here not merely to support Government, but is here to support Government only when the Government is in the right and to oppose when the Government is in the wrong will vote for the amendment.

Maulvi ABUL QUASEM: I find one difficulty as regards sections 123E. It is said that all expenses incurred in connection with an application under section 123D shall be paid out of the municipal fund. The whole purpose of the Bill is to check illegal and unnecessary expenditure of the rate-payers' money. What guarantee is there that the auditor will not make some inflated and improper bill of expenditure and what machinery is the bill providing to serve as a check on any such tendency on the part of the auditor? I certainly think that there should have been provision of some authority who should certify the expenditure incurred by the auditors to be legal and necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I must remind the hon'ble members who propose to vote against Government that the auditor in this case is no other person than the Accountant-General, Bengal, or the Examiner of Local Accounts. Dr. Sen Gupta said that the auditor might have acted maliciously. The auditor is not a party in the Corporation politics, neither is he interested in the affairs of the Corporation. He is an Accounts Officer under the Government of India. So he can be reasonably expected to consider things from a detached point of view. The whole clause about the surcharge would be unworkable if the auditors are not protected; with the sword of Damocles hanging over their heads that they might be saddled with costs if they try to do their duties they would never be able to act honestly.

Mr. B. C. CHATTERJEE: My point is that where the costs have been allowed by the Court against the auditors in case of latches or default, in such cases they should be made to pay.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: But who is going to be reimbursed? It is the Calcutta Corporation which is going to be reimbursed and not the Government or the auditors themselves. The auditors would be doing their work in the interest of the

Corporation and if the auditors are to be saddled with costs, certainly the costs should come from the Corporation. With these words I oppose the amendment.

Dr. Naresh Chandra Sen Gupta's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.	Mazherjee, Mr. Syamaprosad.
Baksh, Maulvi Syed Majid.	Podder, Seth Hanuman Prasad.
Banerji, Mr. P.	Qassem, Maulvi Abul.
Basu, Mr. Narendra Kumar.	Rai Mahasai, Maniendra Deb.
Chatterjee, Mr. S. C.	Roy, Babu Khetter Mohan.
Chaudhuri, Babu Kishori Mohan.	Roy, Mr. Shanti Shekhareswar.
Faziullah, Maulvi Muhammad.	Ray Chowdhury, Babu Satish Chandra.
Ghose, Rai Bahadur Saseuka Camar.	Sen, Rai Bahadur Jogesh Chandra.
Maiti, Mr. R.	Sen Gupta, Dr. Naresh Chandra.
Mittra, Babu Sarat Chandra.	

NOES.

Armstrong, Mr. W. L.	Miller, Mr. C. C.
Ashworth, Mr. C. G.	Mitter, the Hon'ble Sir Provash Chunder.
Bal, Babu Lalit Kumar.	Mitter, Mr. S. C.
Banerji, Rai Bahadur Keshab Chandra.	Mullick, Mr. Mukunda Behary.
Barma, Rai Sahib Panchanan.	Nag, Reverend B. A.
Birkmyre, Mr. H.	Nazimuddin, the Hon'ble Mr. Khwaja.
Bose, Mr. S. M.	Nelson, Mr. W. H.
Bottomley, Mr. J. M.	Nicholl Mr. C. E.
Burn, Mr. H. N.	Philpot, Mr. H. C. V.
Cohen, Mr. D. J.	Prentice, the Hon'ble Sir William.
Dain, Mr. G. R.	Rahmen, Mr. A. F. M. Abdar-.
Das, Rai Bahadur Kamini Kumar.	Ray Chowdhury, Mr. K. C.
Dutt, Rai Bahadur Dr. Haridhan.	Rees, Mr. J. E.
Edgley, Mr. H. E. A.	Roy, the Hon'ble Sir Bijoy Prasad Singh.
Faraqui, the Hon'ble Nawab K. G. M., Khan Bahadur.	Roy, Babu Haribansa.
Fawcus, Mr. L. R.	Ray, Mr. Satiseswar Singh.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.	Roy, Mr. Sarat Kumar.
Gilchrist, Mr. R. N.	Ray, Mr. S. N.
Gladding, Mr. D.	Sadeqtullah, Maulvi Muhammad.
Saha, Babu Profulla Kumar.	Sarker, Rai Sahib Rebati Mohan.
Saha, Mr. P. N.	Sen, Mr. S. R.
Hogg, Mr. G. P.	Sen, Rai Bahadur Jogesh Chandra.
Hooper, Mr. S. G.	Steven, Mr. J. W. R.
Hosain, Nawab Musharruf, Khan Bahadur.	Sumner, Mr. C. R.
Hussain, Maulvi Latafat.	Thompson, Mr. W. H.
Khan, Mr. Razaur Rahman.	Townend, Mr. H. P. V.
Lockhart, Mr. A. R. E.	Walker, Mr. W. A. M.
Maguire, Mr. L. T.	Wilkinson, Mr. H. R.
	Woodhead, the Hon'ble Mr. J. A.

The Ayes being 19 and the Noes 57, the motion was lost.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 11, in proposed section 123E(*1*), lines 1 to 3, the following words be omitted, namely:—

"All costs allowed by the Court against the auditors under the provisions of section 123C and."

Sir, there may be circumstances when it may be necessary that the Corporation should be reimbursed for the expenses incurred by the auditors. In cases where the Court finds that the auditor is at fault, the Court may decree in favour of a particular person. I take it that in cases where the Court will see that the auditor was not at fault, although the Court may decree in favour of the Corporation, the Court in such cases will not be disposed to allow costs against the auditor, but when the Court does give a decree against the auditor in certain cases as a result of neglect of duty or latches on the part of the auditor, it passes my comprehension why the costs should be borne by the Corporation. It is a matter of principle and when the law lays down a certain provision it should be seen that the principle involved in that particular provision does not really go against common sense, and against the healthy rules of jurisprudence. It has been stated that as a matter of fact the Accountant-General is the auditor. Undoubtedly so. And there is no reason, therefore, to mistrust the Accountant-General, but the Accountant-General does not always look into these matters himself. He often deputes some of his subordinate officers, and there are circumstances when the auditors may come in conflict with the members of the Corporation. There may be private feelings aroused in such cases when a particular subordinate officer may be led away by sentiments of the moment and pass an order for surcharge. In such cases it would be a healthy rule if the auditors have got to pay for their negligence or laches; that will act as a check on them just as in other cases it will act as a check on the Corporation members. After all auditors are human beings and may do things out of pure feeling. Not being a whole hogger, I have not put my amendment for the deletion of the whole of clause 123E, but I have been more cautious than the mover of a previous amendment who wants to do that. I hope my amendment will, therefore, be accepted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment practically on the same ground as the last one. In doing so, I may remind the House that the Corporation accounts are audited free of charge; Government auditors audit the Corporation accounts and the Corporation does not pay anything towards the cost, so that is a concession which Government makes in favour of the Corporation. If the cost is decreed against the auditors for acts done in the course of the discharge of their duties, certainly the Corporation should bear the cost. On this ground I oppose the amendment.

The motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 11, in proposed section 123E, in lines 1 and 2, the words "against the auditors," and in lines 3 and 4 the words "by the auditors" be omitted.

Sir, I wish to ask the House to remember the words used by the Hon'ble Minister in opposing amendment No. 215. He said that unless provision was made for the cost of the auditors and there was likelihood of the auditors being mulcted in Court they would have to pay from their own pockets and this provision would be hanging like the sword of Damocles over the heads of the auditors and they would not be able to do their duties with that sense of security and safety with which they ought to work. I wish the Hon'ble Minister remembered this very beneficent principle in proposing surcharges in the case of the Corporation, its Aldermen, officers and Committee men. However, that may be, I see no reason why there should be a distinction in principle between the cost of the auditors and the cost of the Corporation employees, Aldermen or Councillor. It is said that because the Bengal Government at present allow the auditors to audit the Corporation accounts free of charge, therefore, when the High Court says that the auditors shall be mulcted in cost, the cost ought to be paid by the Corporation, that is to say, because a wrong charge has been made against the Corporation by the auditors, the cost of the auditor must be paid by the Corporation, because they have been kind enough to bring a wrong charge against the officers of the Corporation—strange logic indeed. The only redeeming feature of that principle would be if it were the law that in all cases the cost of these proceedings would be borne by the Corporation. After all it is not the auditors alone who do or profess to do the Corporation work; there are Councillors, Aldermen, Committee men who look after the finances of the Corporation; they are all there to do the Corporation work, and if they make mistakes they make mistakes in their activities as members or officers of the Corporation. To use a vulgar expression, "it is not their paternal work that they are doing;" they are doing the work of the Corporation and, if, in doing that work they are surcharged and there is a proceeding in Court, I submit the same principle ought to apply to the unsuccessful party or the successful party, whether the unsuccessful party happens not to be auditors but the other side. As some of the members of the House may be aware, when there is a question of difficulty of construing a will and litigation has to be resorted to, the Court always decides that the cost of both sides should come out of the estate. Supposing a question of accounts which is to be decided against the members of the Corporation, is one of peculiar difficulty and it is not unknown, because as I have reminded the House on several occasions, not one departmental head of the Government of Bengal has up to now escaped the castigation of the Accountant-General for financial irregularity, but they go on merrily because there is no question of surcharging them. If there were a question of surcharging them I would have liked to see how they felt when a surcharge was put upon them. As Mr. Chatterjee pointed out, there has been no surcharge for the dredgers, but the dredgers is an extreme case, but

every day and every year in the Public Accounts Committee do we not find that almost every department is pilloried by the Accountant-General for financial irregularity; are they not brought to the notice of this House? But there is no question of surcharge. I do not say that these mistakes pointed out by the Accountant-General are dishonest mistakes—they are honest mistakes—but still they are financial irregularities, and if the Corporation Councillors, Aldermen or officers were to do such things, the Accountant-General as auditor would be bound to surcharge them under this clause, and if the Court takes a lenient view and said that notwithstanding the prohibition of this expenditure by the account rules or by the strict rules of finance the auditors' surcharge should be set aside; in that case I submit there is absolutely no reason on earth why the cost of the Councillor or Alderman should not come out of the Corporation funds. I say, Sir, what is sauce for the gander is sauce for the goose, and, therefore, if for no other reason, the same principle should apply both to the auditors, Councillors and Aldermen whose duty it is to look after the Corporation funds.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If this motion is carried, its effect may be that a person who is guilty of wasting Corporation funds will have his legal expenses paid out of the coffers of the Corporation.

Mr. NARENDRA KUMAR BASU: He will go to jail.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If Mr. Basu is engaged at a high rate of fee for defending that person, he will send his bill to the Corporation for payment.

Mr. NARENDRA KUMAR BASU: With great respect, Sir, does the Hon'ble Minister think that this Bill refers to criminal cases also? If that be his knowledge of the Bill, then heaven help him.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It refers to the Civil Court certainly. Over and above the right of appeal the Local Government can always intervene, and I am going to accept an amendment which was suggested by certain sections of the House that in case of a person voting in good faith, Government will condone the surcharge. So that is a safeguard against misuse of power, but if Mr. Basu's amendment is accepted which, I think, is absurd, its only effect will be that the person who may be definitely doing harm to the Corporation, will get his legal expenses out of Corporation funds.

The motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 11, proposed section 123F be omitted.

I think under section 123E the sum may be realised through Court and the forfeiture clause under this section should be omitted. It is unnecessary to say much about it. As there is provision that it may be realised through the help of the Court, it is unnecessary that any forfeiture clause should be there, and so it may be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment moved by Babu Kishori Mohan Chaudhuri, because this clause is drafted on the lines of the English statute which, I should say, operates more harshly. Under the English Act, the Councillor not only loses his seat but is also debarred from seeking re-election during the next 5 years. So, I oppose this amendment.

The motion was then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 11, in proposed section 123F, in line 10, for the word "three" the word "six" be substituted.

Sir, I am fully conscious of the fact that it would be useless for me to stand in the way of the victorious march of the Hon'ble Sir Bijoy Prasad Singh Roy while piloting this Bill. Although his final victory is assured, I should like to appeal to his good sense in taking into his kind consideration the amendment tabled by me. My amendment is a very modest one. The clause will stand unaffected. What I want is a little more time for payment of surcharge. Three months is too short a time for payment of heavy penalties like the surcharge. You are not going to force him to pay after his appeal is heard. It is just like "*agu lath pachu bath.*" One has got to pay the penalty first and then the appeal will be heard. If a man is penalised for careless voting, he must have to find the money anyhow. If he has not got enough bank balance, it may be necessary for him to mortgage his properties for raising a loan for the purpose and these take a good deal of time even when the money market is not so tight as it is in these days of financial depression when capital is shy and money cannot be easily raised even if the security offered be sufficient. In the circumstances, do you want to drag him to jail for the fault of voting for a grant and then to compel him to vacate his seat? This would be adding insult to injury if he is required to vacate his seat or he be dismissed if he cannot pay the surcharge within three months. I, therefore, suggest the extension of time from three to six months. I commend my modest amendment to the acceptance of the House.

Mr. H. P. V. TOWNEND: There is not very much substance in this motion, because there is no real reason why a man should be able

to raise money in six months which he could not raise in three. It will be seen that the Select Committee raised the time from one month to three months, and it was not done without due consideration. I do not think any arguments have been advanced which were not considered by the Select Committee. On this ground I oppose the amendment.

The motion was then put and lost..

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 11, after proposed section 123G (*1*), the following be inserted, namely:—

"Provided that such rules shall be laid before the Bengal Legislative Council as soon as may be after they are made, and if an address is presented to His Excellency the Governor by the Legislative Council, after a motion to that effect has been made and carried, within the next thirty days on which the Legislative Council has sat after the rules are laid before it, praying that the rules or any one of them may be annulled, His Excellency may annul the rules or any of them, and those rules shall henceforth be void, but without prejudice to the validity of anything previously done thereunder."

Sir, more than once the Hon'ble Minister has said in piloting this Bill that he has followed the English law. I hope he will have no objection to accept my amendment because it has been drawn on the lines of an English Act—an Act passed by the Parliament—I mean the Government of India Act. In this Bill, and not only in this Bill but also in other Bills that were brought before the Council by the Government in recent days, Government have sought to acquire wide powers by virtue of their rule-making power. The other day, Mr. Thompson, leader of the English group, raised his voice of protest against this policy of the Government because in this way Government were usurping the functions of the Legislature. They are not giving an opportunity to the Legislative Council to express an opinion on or give them sanction to important details. Sir, in connection with this Bill we should be very careful to see how much power we are delegating to the Government. Sir, those who have carefully listened to the debates in this House for the last two days cannot help feeling that there is something wrong with the Government of Bengal in the Ministry of Local Self-Government.

The Hon'ble Minister has not been able to conceal his attitude of hostility towards the Calcutta Corporation. In every detail, whenever he stood to justify the provisions of the Bill, his one slogan was that the Calcutta Corporation was a suspect body, that it is an institution that cannot be relied upon to discharge their responsibility with a sense of duty and fairness. It is a strange attitude on the part of the Government. It is an attitude which would astound people in any

other part of the world. The Calcutta Corporation owe their very existence to this Legislature as well as to the sanctions of the Government. As a matter of fact, the Calcutta Corporation or any other local body in the *mufassal* discharge the functions of Government in this country. Certain powers of Government are entrusted into the hands of these local self-governing bodies, and these local bodies are looked upon more or less as semi-Government bodies. If you ask an illiterate person, he will say that the action of the Corporation or any other municipality is more or less the action of the *sarkar*. At least that is the view taken by the people of this country in general. But, Sir, what do we find? Every provision of this Bill breathes suspicion. Instead of co-operation, instead of encouragement for a growing sense of responsibility in the Calcutta Corporation, every effort has been made to cripple and, if possible, to hamper the future activities of the Corporation. For instance, let us examine the duties and responsibilities as well as safeguards that the Government propose to impose on the Corporation Councillors or employees and the auditor. In the case of the auditor, Government is very anxious to protect him and that he should not be harassed for doing anything in good faith, but what about the Corporation employees and Councillors? Well, Government cannot even accept a simple provision that they should be protected and that if action is done in good faith they should not be punished or surcharged. Under such circumstances, when this is the feeling between Government, the parent body, and the child, the Corporation——I should explain that I had to emphasize this point because the rule-making powers of Government cover practically all sections of the Bill. If you turn to section 1230, you will find that the Local Government may make rules for the purpose of carrying into effect the provisions of this chapter. For instance, they can make rules as regards the powers and duties of the auditor and the procedure to be followed by them and the time when and the place where the audit will be conducted. I hope it will be realised now that in discussing these details I have not brought in anything irrelevant.

As regards the merit of the amendment, I think the Government can possibly have no objection as it has been drawn up on the lines of the provisions of the Government of India Act. I may refer the Hon'ble Minister to section 124A of that Act. The main object of this provision is that as it may be necessary for the Executive to take certain powers in this connection, which may be unnecessary, or may rather hamper the course of business in this House, this discretion is given to the Local Government. But at the same time, precaution has been taken that if the Government make any such rule that requires to be modified, members of this House have the power to modify or get rid of such rules, and without following the usual lengthy process of the introduction of a Bill. By that it means, they may simply pass a

resolution and that will give His Excellency the Governor an idea of the feeling in this House and the country on such a question. But, even then the resolution would not be of a mandatory nature, but would be of the nature of a recommendation and if His Excellency thinks that the House has taken the right view, he may modify or change the rule accordingly. I can see absolutely no reason for Government to oppose this amendment unless Government take a totally unreasonable attitude. When Government objected to that proviso about good faith, they said that there was no such provision in the English law. Now perhaps the Hon'ble Minister may take the plea that there is no such provision in the Indian law or Bengal law, but that sort of argument should not carry any force with the House.

I should also like to emphasize another point. By passing this amendment the House will be acquiring further powers for the House itself, and in such matters we should follow the traditions of the House of Commons. These powers were not conferred by Legislative Acts but was acquired by precedent. Here too, Sir, though there may be no such provision in any other Indian Act, passed by the Legislative Assembly or by the Provincial Councils, I think the Bengal Legislative Council can give a lead to the rest of India that even under the existing Government of India Act we have got such powers of modification and such scope for improvement.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. H. P. V. TOWNEND: Sir, may I first deal with the general reason put forward by Mr. Ray for opposing the provision that Government should make rules? It is the custom in almost all Acts that have been passed by this Council to provide powers for rule-making by Government, and I can only ask the House to look back and see whether Government has ever misused this power of making rules in the manner which Mr. Ray anticipates is likely to happen under this clause. His second point is that the attitude of the Government in dealing with this Bill has been one of suspicion towards the Calcutta Corporation and so the rules framed would be vindictive. Well, we have contested the argument before that Government are in any way vindictive towards the Corporation, but Mr. Ray is correct to some extent when he says that the attitude of Government towards the Corporation is one of suspicion: but this is due to the fact that Government are aware that they have no power to enforce the duties imposed on them by the Act. If this Bill is passed into law, such powers will be there and the chief reason for suspicion will disappear, because Government will know that the Corporation will not be in a position to proceed in disregard of the law, after the passing of these sections. My hope is that once the Bill has passed into law there will be an end

of friction between the Government and the Corporation, and we can start on a fresh basis. Sir, the amendment itself is very interesting and is one for which we have every possible respect. The proposed clause in itself is a good enough clause, but the objection to it is that the time for its adoption is not auspicious. The position is that the member attempts to graft on to the practice which prevails in Bengal a procedure which has grown up in England, where the conditions are different. Unless we have the same machinery here that we have in England, this clause will not work. The proposal is that there should be a resolution passed by the House presenting an address to His Excellency the Governor who then "may" annul the rules. In England when this is done, Parliament presents an address to His Majesty who may annul the rules: there by convention "may" means "shall". When an address is so presented—it has happened three or four times during recent years—then His Majesty "shall" annul the rules. But here the word "may" cannot mean "shall". I am not myself a constitutional lawyer, but I understand that the same meaning could not be given to the words in Bengal as has been established by convention in England. (MR. SHANTI SHEKHARESWAR RAY: Make that convention here also.) In time a similar procedure will grow up no doubt, but the position is such at present that the convention cannot be imposed because under the present constitution the word "may" cannot be used to mean "shall" in this connection; the powers and duties of the Governor are laid down in the Government of India Act and this House cannot pass the amendment in the form in which it has been presented if it is to be at all effective. Another thing I want to point out is that there are already many Acts in which rule-making powers are given to Government. If we are going to introduce a new procedure as regards the clause under discussion, we shall logically have to do the same in the case of all Acts. I do not wish to cast any slur on Mr. Ray's amendment: I consider it is a very interesting amendment. But I do not think that such a change in constitutional procedure should be introduced in this way. The matter should be considered very carefully before a radical change in the procedure regarding the making of rules in Bengal is effected. Then I may remind him that if this amendment were adopted as it stands, it would add nothing new to the position which exists already. Now, Sir, how will the House come to present an address to His Majesty——

* **Mr. SHANTI SHEKHARESWAR RAY:** On a point of order, Sir. The House will not present an address to His Majesty but to His Excellency. There is provision for this in the Act.

Mr. H. P. V. TOWNEND: It was a slip of the tongue. I beg your pardon, Sir. I meant to say how could the House come to present

an address to His Excellency the Governor? There would have to be some special motion moved. Under the existing rules of the House a special motion can only be moved with the leave of the member in charge of the subject and the result would be that there might be some difficulty in dealing with it.

The general point behind this amendment is really one which has been raised on several occasions during this debate: it is the general question about the propriety of the making of rules by Government. The objections to leaving ruling-making powers to Government were sound at the time when the Legislature did not seek to intervene in so many different fields of activity. It was possible then to consider Acts very slowly and carefully and in great detail. But recently the custom has changed, and the Legislature now tends to interfere with activities of every kind: if everything dealt with by rule had to be brought before the Legislature for discussion in detail, it would be simply impossible to deal with them. There would be no time for it. If the House knew how many rules we have to deal with yearly, they will realise that it would be impossible to get them through if the procedure were radically altered. There is no danger that Government will misuse such powers. Any rule that is to be framed has to be published in the Gazette and brought to public notice, and if any member objects to that rule, he can even now ask for leave to introduce a special motion. and I have no doubt whatsoever that the Hon'ble Minister would immediately examine the rule and see whether it was in order.

I oppose the amendment.

Mr. NARENDRA KUMAR BASU: Sir, I am afraid Mr. Townend has not read the draft of this new clause as carefully as he usually does read these things. I will take his last objection first. He thinks that if this amendment were inserted, it would bring things to a standstill and make day-to-day administration impossible. He has forgotten to see that the very last clause of the proposed addition is "without prejudice to the validity of anything previously done thereunder"—so that whether there is an address to His Excellency the Governor or not, it does not matter; the day-to-day administration can be carried on under the rules framed by the Local Government and unless and until such rules are so brought to the notice of His Excellency by the Legislative Council and they are declared void, there will be no practical difficulty so far as the carrying on of the administration is concerned. I need hardly at this stage draw attention to the fact that the address has got to be presented by the Legislative Council, which means that it must be carried by a majority of the Legislative Council. Mr. Townend suggested that things are not in Bengal as they are in England and, therefore, it is not yet time to bring these English rules, even though they are very salutary there, into effect in Bengal. I

hardly think, Sir, that things being what they are in Bengal, this will spell any disaster so far as the presenting of the address is concerned. Then, Sir, we have been told time and again that it is necessary that parliamentary practice should grow up in India and the provinces and that we should learn how to govern ourselves when the new constitution ushers in the millennium. I take it, Sir, from the point of view of this motion that the sooner we adopt the safeguards which are given to the Legislature against what may be called the executive vagaries—I say sooner the Legislative Council is given the power to have these anomalies and these defects removed, the better.

Mr. Townend has also said that we can always bring in a special motion and that will bring the matter to the notice of the Hon'ble Minister. By this clause what we want to do is not to allow the Government to compel us to go to the Minister with the beggar's bowl in our hands. We want that the Legislative Council should have power to sit in judgment over the rules made by the Hon'ble Minister and his department and if the Council thinks that his powers are being abused, we want the power to go up to His Excellency the Governor and have them rectified. Sir, we have also been told that there are already other Acts of the Legislature and in them no such provision exists. I thought that this Council was bold enough to create precedents. For instance, we have had many other Acts of the Bengal Legislative Council, but there has been no Bill of this description and we are creating a precedent by this Bill itself, and as a matter of fact if the power of presenting address to His Excellency is a good power, is a beneficent power, is a power that makes for democracy in the country, I submit there is absolutely no reason why the Council should not get itself invested with that power.

As has been pointed out, Sir, in the Government of India Act, in the case of rules made by a higher authority than the Local Government—the Government of Bengal—I mean rules made by the Secretary of State, this power is given to the Parliament. I do not see, Sir, why then the Local Government in Bengal shall have *vis-a-vis* the Provincial Legislature more latitude than what the Secretary of State himself has *vis-a-vis* the British Parliament.

In section 129A of the Government of India Act it is stated that——

"Any rules to which sub-section (*1*) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it, praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder."

Therefore, I submit that the power to present an address to His Excellency the Governor now sought to be given to the Bengal Legislative Council is nothing very new, even though it may be new to the bureaucracy. As regards the question that "may" in the Parliamentary Act means "shall" and the apprehension of Mr. Townend that in Bengal if such interpretation is put the result will be disastrous, I submit, Sir, there is nothing at all in that point. If under the Parliamentary Act His Majesty the King-Emperor can place that much reliance on an address of either House of Parliament that certain rules ought to be modified and even with His Majesty's prerogative he interprets "may" as "shall" and does abrogate the rules, I do not see any reason why on a proper case being made out by a majority of the Council, His Excellency the Governor should have a greater latitude than His Majesty the King. I submit that if "may" is to be "shall", let it mean "shall" both in England and in India. There is no ground for which one is to be afraid of "May" meaning "May" in England and "June" in India. I submit that the amendment ought to be accepted.

Mr. Shanti Shekhareswar Ray's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Hakim, Maulvi Abdul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Roy, Mr. Shanti Shekhareswar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khawaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Keshab Chandra.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Bura, Mr. N. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Cohen, Mr. D. J.
Dain, Mr. S. R.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. N. B. A.
Farequi the Hon'ble Nawab K. G. M.
Fawcett, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. D.
Hosain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Latafat.
Khan Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Nicholl, Mr. C. K.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Qasem, Maulvi Abul.
Rahman Mr. A. F. M. Abdar-.
Ray, Babu Amulyadhan.
Ross, Mr. J. B.
Roy the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Ray, Mr. Satheswar Singh.
Ray, Mr. Sarat Kumar.

Roy, Mr. S. N.
Sachchidhan, Maulvi Muhammad.
Sarker, Rai Sahib Rebati Mohan. G
Sen, Mr. B. R.
Sen, Rai Bahadur Girin Chandra.
Steven, Mr. J. W. R.
Sumner, Mr. G. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 11 and the Noes 60, the motion was lost.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I now ask a short-notice question of which I gave notice?

Mr. PRESIDENT: You may do that after I have disposed of these amendments.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 11, the proposed section 123G(*2*)(*b*) be omitted.

Sir, by this clause what is sought to be provided is that the Local Government may make rules for the purpose of carrying into effect the provisions of this chapter and amongst others the following matter:—

"the agency by which and the manner in which prosecutions shall be instituted under section 121A."

We have had this age of bureaucratic legislation, the age and system against which great lawyers in England have protested and protested ineffectively. We are used to the idea of having the work of legislating being delegated to the Executive Government, but I do not remember to have come across a piece of legislation in which the legislative powers of this character have been delegated to the Government. The language in which the power is couched is very wide. It includes not only the agency by which but also the manner in which and probably the procedure according to which prosecutions shall be instituted. Suppose Government lays down a special rule or procedure, and there is nothing in this section which will prevent them from doing so, then are we to understand that the trial of cases is to be regulated by that bureaucratic legislation? I think we have fallen very much, but we have not fallen so low as that. The Criminal Procedure Code provides for a certain procedure for the trial of cases, which seeks to safeguard the interests of the accused persons against miscarriage of justice. But the language of this clause enables Government by their rules to override any of the provisions of the Criminal Procedure Code as to the manner in which prosecutions are to be instituted. The manner in which these prosecutions are to be instituted is laid down in certain sections of the Criminal Procedure Code, section 190, for instance. Is there anything in this clause to show that those provisions are not to be affected? I submit that this is altogether extraordinary and such a rule-making power should not be given to Government.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I oppose this amendment. Dr. Sen Gupta has imputed more to this clause than was thought of. It is a simple and inoffensive procedure. There is nothing new and nothing wrong in it. It is the usual and the normal procedure that is sought to be introduced.

The motion was then put and lost.

Mr. PRESIDENT: We now get back to motions Nos. 188, 191 and 194, which were not dealt with in the ordinary course.

Khan Bahadur Maulvi AZIZUL HAQUE: May I at this stage move a short-notice amendment, Sir?

Mr. PRESIDENT: The Hon'ble Minister is going to move a short-notice amendment too.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that at the end of section 123C, before the Explanation, the following be inserted:—

"Where a person referred to in section 123B, sub-section (2), who has been surcharged as authorising an illegal payment appeals to the Local Government under this section, the Local Government shall set aside such surcharge if it is proved to their satisfaction that such person voted for a motion or resolution in good faith."

Mr. PRESIDENT: What was the understanding reached—that the three amendments already before the House will be withdrawn?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I hope so, Sir.

Mr. NARENDRA KUMAR BASU: Sir, I beg to point out that it is absolutely different from what was settled on the floor of the House. The Hon'ble Minister gave an undertaking——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I gave no undertaking to Mr. Narendra Kumar Basu.

Mr. NARENDRA KUMAR BASU: But he gave an undertaking to the House, if not to me.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, I gave an undertaking to that section of the House which is anxious to help Government in passing this legislation. Here is the amendment and it is for the House to accept it or reject it.

Mr. NARENDRA KUMAR BASU: Let me take the House back to what we were discussing when this incident took place. We were discussing section 123B when the Khan Bahadur wanted to move a short-notice amendment with your leave and the point that was then being discussed by the House was that, on it being shown to the auditors that a vote was given *bonâ fide* a certificate need not issue—that was the question that was being debated at that stage. If you will kindly look at the order paper you will find that all the amendments related to clause 123B (2) and now something quite new is being jumped upon the House, and it is said that the Hon'ble Minister gave no undertaking——

Mr. PRESIDENT: I take it that you are opposing the motion of the Hon'ble Minister.

Mr. NARENDRA KUMAR BASU: Not only that, Sir, but I am rising on a point of order: I submit that section 123C is not now before the House, and that the only clause that may be pertinently discussed in this connection is clause 123B (2).

Mr. PRESIDENT: Well, I do not understand what you mean. The clause of which it is a mere section has not yet been disposed of. Anyway, I have nothing to do with any compromise or any controversy that might have taken place outside the Chamber. I have simply permitted the Hon'ble Minister to move a short-notice amendment and it is for the House to accept or reject it.

Khan Bahadur Maulvi AZIZUL HAQUE: May I intervene at this stage with your permission, Sir, as the matter originated out of a suggestion of mine to find out whether it was possible——

Mr. PRESIDENT: Are you speaking on this amendment or are you going to move a new amendment?

Khan Bahadur Maulvi AZIZUL HAQUE: No, Sir. I am only referring to what was going on when the necessity for this amendment arose. We were discussing that the Councillors, Aldermen, Committee men present at a meeting would have to pay a certain amount immediately if there was an illegal payment sanctioned by them, and the view was taken in this House at that stage that it would be hard if the Councillors, etc., were to be surcharged for an illegal payment if they had *bonâ fide* voted for a particular motion. The discussion was then going on on these lines, when the Hon'ble Minister, if I remember aright, made certain remarks on that view, and I suggested that the difficulty could be met if the Hon'ble Minister were prepared to agree

to exempt a person who had voted in the *bonâ fide* belief that he was voting according to the law, and I asked your permission, Sir, to move a short-notice amendment to that effect. The position is that, as the Bill now stands, the scheme with regard to surcharge is that it is the auditors who will surcharge and it is only through a provision for appeal to the Local Government that the power of exemption lies, and, therefore, with a view to fit in with this scheme of legislation it was thought that instead of putting it in clause 123B (*2*), it would be much more preferable to make it a part of clause 123C. The motion says "when a member who has been surcharged for authorising an illegal payment appeals to the Local Government, the Local Government shall set aside such surcharge if it is proved to their satisfaction that such person voted for a motion or resolution in good faith." Therefore, so far as this motion is concerned, the position is that, once the question of *bonâ fide* and good faith is proved to the satisfaction of the Local Government, there will be no option to the Local Government, but the Local Government shall be bound to set aside such surcharge. I do not see how there can be any objection to this, and if there be any controversy the controversy will be as to whether it will be done *ipso facto* or as a matter of appeal. If it is to be *ipso facto*, the question would be: how could the Local Government know of the *bonâ fide* character of the transaction? Here is the auditor, who makes a surcharge, and there is the Local Government, who have certain powers of setting aside an award of the auditors; and the question arises how is it possible to bring to the notice of the Local Government the *bonâ fide* character of a Councillor's action? The only possible and preferable way would be to make this amendment a part of section 123C. If any other scheme could be shown to be more feasible I would see no objection to it, but I feel that it would fit in better with the scheme as drafted in this legislation, to make it a part of clause 123C, wherein, along with certain powers given to the Local Government, this power is also given, namely, that where the *bonâ fide* character of a Councillor's act is proved to the satisfaction of Government it will set aside the certificate not as a matter of option, but as a matter of compulsion. Therefore, I say, that so far as this amendment is concerned there need not be any objection. But I nevertheless feel that it would have been much better if it were possible for the House to have accepted Mr. P. N. Guha's amendment, which left the question of surcharge solely with the Government. But since that amendment was rejected, I believe there is no other option but to accept the amendment of the Hon'ble Minister.

Mr. PRESIDENT: I take it that Mr. Narendra Kumar Basu is not withdrawing his motion.

Mr. NARENDRA KUMAR BASU: No, Sir.

The following motion of Mr. Narendra Kumar Basu being put, a division was taken with the following result:—

"That in clause 11, in proposed section 123B (2), in line 9, after the word 'deemed' the words 'unless he can show that he acted with due care and attention' be inserted."

AYES.

Bakali, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Ghose, Dr. Amulya Ratan.
Maiti, Mr. R.
Mukharjee, Mr. Syamaprasad.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. R. H.
Coheq [illegible] J.
Dain, Mr. G. R.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. N. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hosain, Nawab Musharruf, Khan Bahadur.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Maguire, Mr. L. T.
Miller, Mr. C. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur-.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Ray, Mr. Satiseswar Singh.
Ray, Mr. Sarat Kumar.
Roy, Mr. S. N.
Saadatullah, Maulvi Muhammad.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Girja Chandra.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A

The Ayes being 10 and the Noes 52, the motion was lost.

Dr. NARESH CHANDRA SEN GUPTA: On a point order, Sir. I want to move a short-notice amendment to the amendment which the Hon'ble Minister has just now moved. Am I not entitled to do that?

Mr. PRESIDENT: It depends upon me entirely. There is no question of right—I may or may not accept a short-notice amendment. You have already moved an amendment and you never made your point clear as to what else you want to move and why.

Dr. NARESH CHANDRA SEN GUPTA: I was going to make that clear, but I was not allowed to do so.

Mr. PRESIDENT: Order, order. Anyway, it is too late now.

The following motion of Dr. Naresh Chandra Sen Gupta was then put and lost:—

"That in clause 11, in proposed section 123B (*2*), in line 11, after the words 'motion or resolution' the following words be inserted, namely:—

'Knowing that the expenditure authorised by the resolution was illegal or without a *bonâ fide* belief in the legality of such expenditure'."

The following motion of Munindra Deb Rai Mahasai was then put and lost:—

"That in clause 11, after proposed section 123B (2), the following be added, namely:—

'Provided that a person who voted for the motion or resolution in good faith shall not be liable for the expenditure'."

Mr. PRESIDENT: The question before the House is that at the end of section 123C before the Explanation, the following be inserted, namely:—

"Where a person referred to in section 123B, sub-section (2), who has been surcharged as authorising an illegal payment appeals to the Local Government under this section, the Local Government shall set aside such surcharge if it is proved to their satisfaction that such person voted for the motion or resolution in good faith."

The motion was put and agreed to.

The motion that clause 11, as amended, standard part of the Bill was then put and agreed to.

Clauses 12 and 5.

The motion that clause 12 and clause 5 stand part of the Bill was then put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: With regard to my short-notice question——

Mr. PRESIDENT: You may put that question to-morrow at question time.

Adjournment.

The Council was then adjourned till 2-30 p.m. on Friday, the 8th September, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 8th September, 1933, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURY, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 94 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Certificate sale of khas mahal jotes in Chittagong.

*177. **Haji BADI AHMED CHOWDHURY:** Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) how many *jotes*, in each of the *khas mahals*, had to be put to certificate sale from April, 1932, to June, 1933, owing to the *jotedars* defaulting to pay the enhanced rents of revisional survey;

(*ii*) how many *jotes* have been purchased by the Government for want of bidders;

(*iii*) how many *jotes* which were purchased by the Government have been resettled and in which *khas mahals* were they; and

(*iv*) what are the grounds for non-settlement, where no resettlement has taken place?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i-iii*) A statement is laid on the table.

(*iv*) Apart from the general agricultural depression, the following reasons apply in the case of particular *jotes*:—

(*1*) Diluviation.

(*2*) Failure of the previous tenant to clear the *jungle*.

(3) Thatching grass plots (*sankhola*) have been spoiled by Assam creeper.

(4) Depredations of wild elephants.

(5) Inundation by salt water.

Statement referred to in the reply to clauses (i) to (iii) of starred question No. 177, showing the certificate sale of jotes in the khas mahals in Chittagong from April, 1932, to June, 1933.

Names of *khas mahals.*	Number of defaulting *jotes* put to sale.	Number of *jotes* purchased by Government.	Number of *jotes* resettled out of those purchased by Government.
Sadar ..	205	139	6
Rauzan ..	108	60	12
Patiya ..	149	77	22
Satkania ..	146	92	31
Cox's Bazar ..	705	573	31
Kutubdia ..	264	160	26
Total ..	1,577	1,101	128

Land mortgage banks.

*178. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the Government have under consideration any scheme to relieve the indebtedness of the people of this province, particularly of the agriculturists?

(*b*) If the answer to (*a*) is in the affirmative, what is the scheme and when do the Government expect to come to a decision on the question?

(*c*) Are the Government considering the feasibility of establishing land mortgage banks in this connection?

(*d*) If the answer to (*c*) is in the affirmative, on what lines will these banks be established?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) Yes.

(*b*), (*c*) and (*d*) The member is referred to the answer laid on the table in reply to unstarred question No. 74 to be put by Mr. A. F. M. Abdur-Rahman at this meeting.

Copies of documents from Bakarganj Registration Offices.

*179. **Maulvi MUHAMMAD HOSSAIN:** (*a*) Will the Hon'ble Minister in charge of the Education (Registration) Department be pleased to state whether there is any specified period within which copies of documents in case of double fees and single fees must be made ready?

(*b*) Is the Hon'ble Minister aware that in the district of Bakarganj two to four weeks are taken in case of single fees and two to three days are taken in cases of double fees in supplying copies of documents?

MINISTER in charge of EDUCATION (REGISTRATION) DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) There is no specified period, but when an extra fee is paid by an applicant his application receives preference.

(*b*) No, but inquiries are being made.

Rural primary education.

*180. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether any portion of the money provided in the current year's budget for the enforcement of the Rural Primary Education Act has already been spent?

(*b*) If the answer to (*a*) is in the affirmative, on what items of work has the expenditure been made?

(*c*) Has any school board been established in any district in accordance with the provisions of the Act?

(*d*) If the answer to (*c*) is in the negative, will the Hon'ble Minister be pleased to state whether such boards are likely to be established in any district in the course of the current year?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) and (*b*). Yes on the establishment of the special officer, who has been engaged on the preliminary spade work.

(*c*) No.

(*d*) No, but from the beginning of next financial year in six or seven districts.

Rai Bahadur KESHAB CHANDRA BANERJI: What are those 6 or 7 districts?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The names have been given many times in this House.

Rai Bahadur KESHAB CHANDRA BANERJI: On what consideration these districts have been selected for the purpose?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I think the hon'ble member, being the Chairman of the District Board, ought to know that the offer was made to all the district boards but only those that have agreed to accept the conditions laid down by Government have been selected.

Jute forecast.

***181. Dr. NARESH CHANDRA SEN GUPTA:** Will the Hon'ble Minister in charge of Agriculture Department be pleased to state—

(*1*) whether the final forecast of jute published on 5th September last is not greatly in excess of the market estimates;

(*2*) what was the estimate made by the Bengal Chamber of Commerce and what were the suggestions made by the Bengal National Chamber of Commerce with regard to the forecast? Is it a fact that the Government forecast disregards their suggestions and if so, why;

(*3*) whether the Hon'ble Minister is aware that the immediate result of the publication of the forecast has been a tremendous fall in the jute market;

(*4*) having regard to the great distress that is likely to follow from this phenomenal fall in prices, does the Government propose to take any emergent action to meet the situation;

(*5*) whether the Government is satisfied as a result of the figures for the crop this year and the past two years that mere propaganda and voluntary restriction has entirely failed to produce a desired restriction of the crop?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*1*) Government have no knowledge of the market estimates and hence are unable to reply to this question.

(*2*) (*a*) The estimate of the Bengal Chamber of Commerce was not communicated to Government who are, therefore, unable to reply on this point.

(*b*) Suggestions for closer consultation with bodies interested in jute, before publication of the forecast, have been received from the

Bengal National Chamber of Commerce among others. Government propose to consider suggestions of this nature in the light of the Jute Committee Report.

(3) Government understand that the price of jute was approximately stationary on the two days following the publication of the forecast at a price about 4 annas a maund lower than on the day previous to the publication. This cannot be called a tremendous fall.

(4) No phenomenal fall has yet occurred in the price of jute; emergent action is not, therefore, called for.

(5) The question of measures conducing to restriction of jute cultivation cannot be properly considered until the Jute Committee's Report is examined; it will be then considered.

Dr. NARESH CHANDRA SEN CUPTA: Is it not a fact that the average outturn of 3·2 bales per acre has never been reached since 1908?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: The estimated outturn on the total area under cultivation gives an yield of 3·2 bales per acre and is based on the actual results obtained from a series of crop-cutting experiments in different districts. The average yield of 3;2 bales per acre adopted this year is thus not an arbitrary figure, and it has not been less during these four years with the exception of 1934, when large areas sown with jute in Eastern and Northern Bengal were severely damaged and the sowings in considerable tracts were destroyed by unprecedented floods. The average yield was actually higher last year, being 3·3 bales per acre.

Mr. SHANTI SHEKHARESWAR RAY: Has the Hon'ble Minister received any information that the figures have been manipulated in the interest of certain speculators this year?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: Not that I know of.

Dr. NARESH CHANDRA SEN CUPTA: Is it not a fact that according to the periodical reports issued by the Agricultural Department the crop of this year has been seriously damaged owing to drought and pests, etc.?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: No, not seriously damaged. Only in one or two districts there has been some damage.

Dr. NARESH CHANDRA SEN CUPTA: What is the information contained in the periodical reports of the Director of Agriculture?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I would ask the hon'ble member to see the reports for himself.

Mr. SHANTI SHEKHARESWAR RAY: Has the Hon'ble Minister made any effort to ascertain the market estimates?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: No Sir.

Rai Bahadur KESHAB CHANDRA BANERJI: When will the Jute Committee's report be published?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: The Committee's report has just been received.

Babu JITENDRALAL BANNERJEE: Do the Government consider it beneath their dignity to keep in touch with market estimates?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Any one can see the market estimates in the newspapers.

Dr. NARESH CHANDRA SEN GUPTA: Is it not a fact that the prices in the "futures" market dropped by Rs. 3 per bale?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: That might be in the "Fatka" market as they call it.

Dr. NARESH CHANDRA SEN GUPTA: Is the Hon'ble Minister aware that the "futures" market prices really regulate the prices in the *mufassal*?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: No.

Mr. SYAMAPROSAD MOOKERJEE: Is it not a fact that the Hon'ble Minister agreed to accept this short-notice question from Dr. Naresh Chandra Sen Gupta on the understanding that he will not put any supplementary question? (Laughter.)

(No answer was given.)

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Baruipur-Lakhikantapur Railway Level Crossing.

73. Rai Bahadur JOGESH CHANDRA SEN: (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware that the area west of Kulpi Road and east of Lakhikantapur railway embankment from the Kulpi Road level crossing up to the 16th mile-post within the limits of Baruipur Municipality (24-Parganas) has become water-logged since the construction of Baruipur-Lakhikantapur railway embankment?

(*b*) Has the Baruipur Municipality made any representation to the District Magistrate of the 24-Parganas?

(*c*) Are the Government considering the desirability of making an early inquiry and of arranging with the railway authorities for additional opening to allow water to pass on to the Adiganga Channel?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) The area in question is liable to flooding, which is alleged by the people of the locality to be due to the obstruction of the natural flow of drainage by the adjacent railway embankment.

(*b*) Yes. Written representations have been made and a representative of the Baruipur Municipality has seen the District Magistrate, 24-Parganas, to explain the position.

(*c*) Inquiries are being made.

Agricultural indebtedness.

74. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether they have come to any decision regarding the action necessary on their part in view of the increasing agricultural indebtedness of the province?

(*b*) If the answer to (*a*) is in the affirmative, what is that decision?

(*c*) Are the Government considering the desirability of taking prompt action in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*) and (*c*). The problem of agricultural indebtedness consequent on the slump in prices of agricultural produce for the last two years has been engaging the serious attention of Government for some time past, and the measures which have so far been adopted by them to alleviate this are detailed below:—

An Expert Committee was appointed to investigate the problems connected with jute, the slump in the price of which has perhaps more than any other single factor affected the general economic condition of the province. The Committee has completed its labours and its report is now being awaited.

A Cabinet Economic has been set up by this Government under the Chairmanship of the Hon'ble Member, Revenue Department, with Hon'ble Member, Finance, and Hon'ble Minister, Agriculture and Industries Department, as its Members, and Secretary, Agriculture and Industries Department, as its Secretary. The Committee has had under its consideration various proposals for measures of economic relief by legislative and administrative methods.

The Bengal Money-lenders Bill has recently been passed by the Legislative Council and the question of taking steps for debt conciliation is under consideration.

The question of marketing of agricultural produce along with cognate questions of warehousing, etc., is also engaging attention, and Government have recently approved of a proposal for the establishment of land mortgage banks on co-operative lines as an experimental measure in selected areas of the province: the details of this scheme are now under examination.

Female primary education.

75. Maulvi ABDUL GHANI CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the present—

(*i*) how many girls' primary schools and *maktabs* are there in Bengal; and

(*ii*) how many female training schools are there in the province?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) 17, 425.

(*ii*) 10.

Hindu Female Training School, Calcutta.

76. Maulvi ABDUL GHANI CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*i*) the monthly house-rent for the Calcutta Hindu Female Training School;

(*ii*) how many students are there in that school;

(*iii*) what is the number of stipends; and

(*iv*) what is the number of teachers?

(*b*) Is it a fact that the different subjects are trained through the medium of Bengali only in that school?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) Rs. 400 per month *plus* occupiers' share of municipal taxes at Rs. 106-10 per quarter.

(*ii*) 26.

(*iii*) 26.

(*iv*) Three (excluding four teachers for the attached practising school).

(*b*) Yes.

Calcutta Muslim Female Training School.

77. Maulvi ABDUL GHANI CHOWDHURY: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that in the last two years 50 or 60 candidates sought admission into the Calcutta Female Training School, but only 4 or 5 of them were taken in?

(*b*) Are the Government considering the desirability of increasing the number of seats, stipends and teachers of the said school?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Forty-six candidates applied for admission into the Moslem Female Training School, Calcutta, in 1931-32, but only 14 of them appeared at the admission test. Eight candidates were admitted to the school although only 5 passed the admission test.

The number of candidates who applied for admission in 1932-33 was 70, of whom 25 took the test. Only 3 candidates passed, but 9 were taken in.

(*b*) No.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Calcutta Municipal (Amendment) Bill, 1933.

Clause 2.

Mr. PRESIDENT: We will now take up clause 2.

Babu KISHORI MOHAN CHAUDHURI: I move that clause 2 be omitted.

Sir, it is a disabling section, but as it is already provided for in section 123, it seems there is no special necessity for making any provision in this clause. Therefore, I move for its omission.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move the same motion.

Mr. PRESIDENT: The motion has already been moved and you can speak on it.

Dr. NARESH CHANDRA SEN GUPTA: If the Council looks at section 123(5), it will be found that this clause is wholly unnecessary; because under that clause, if a Councillor or an Alderman or a member of the Committee has not paid the money, he will not be eligible for re-election or reappointment until the same has been paid by him. Therefore, after a Councillor sitting as such has been surcharged and has not paid that money, he is not re-eligible. It may be said that this does not apply to a person who has not been a Councillor before. But in that case there is no question of any surcharge at all. Therefore, this will have no application in that case.

Mr. H. P. V. TOWNEND: Sir, it was the advice of the Legislative Department that this should be repeated here, though it is not necessary from the point of view of the Administrative Department. But if the Legislative Department think that it will improve the Act if this is repeated here, why not repeat it?

Babu Kishori Mohan Chaudhuri's motion was then put and lost.

The motion that clause 2 stand part of the Bill was then put and agreed to.

Clause 3.

The question that clause 3 stand part of the Bill was then put and agreed to.

Clause 6.

Mr. P. BANERJI: I move that clause 6 be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, had I not rather moved my amendment first which, according to your suggestion, has been redrafted?

Mr. PRESIDENT: It is not necessary. It has been circulated, and I have given my ruling that these have been well placed in the Bill and should be treated as parts thereof.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. You have just called upon Mr. Banerji to move his motion on clause 6; but which clause is affected now—the old or the new clause?

Mr. PRESIDENT: I should like to know from Mr. Banerji whether he wants to have his amendment applied to both or to any one of the two. There will be no difficulty in either case. If so desired, the amendment may be applied to both clauses, but I shall put them separately. So, there will be no difficulty when the House is voting. Now, it is for Mr. Banerji to decide if he should bring within the scope of his amendment only clause 6 or clause 6A as well.

Mr. P. BANERJI: I should like to have it applied to both 6 and 6A.

Sir, at the outset I may say that, in spite of so much labour that has been taken by the department there has been, I am afraid, no improvement whatsoever on clause 6A. The original clause 6——

Mr. PRESIDENT: For the convenience of the House I might suggest that in such cases those participating in the debate may divide their speeches into two parts: the first part consisting of arguments in regard to clause 6 and the second part dealing with 6A.

Mr. P. BANERJI: I consider, Sir, the argument will remain practically the same. In the first place, in clause 6 the Corporation will not be allowed to make any grant to any institution whatsoever other than those institutions that have been defined in clause 6A that provides

for grants for primary education for boys and girls. Now, Sir, so far as we are aware, the Corporation grant is extended to about 2,000 institutions. In these 2,000 institutions first of all the primary institutions were started by the Corporation and those institutions are under Government, either aided or unaided, under the University of Calcutta. Sir, you will notice that Government have so far exempted those persons that have offended against the State who are already in the service of the Corporation; they will not be dismissed automatically, that is there will be no retrospective effect in their case. But so far as the employees of the institutions which receive grants from the Corporation are concerned, they will naturally suffer. We fail to understand, Sir——

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. So far as one can understand from the drafting of the amendment that has been circulated, it does not relate to any other institutions except educational institutions.

Mr. PRESIDENT: How do you arrive at that?

Mr. SHANTI SHEKHARESWAR RAY: My submission is that other institutions do not come in at all under this drafting.

Mr. PRESIDENT: I do not think you are right. Mr. Banerji may go on.

Mr. P. BANERJI: As I read clause 6 it seems that the Corporation will not be able to extend its grant to any institution whatsoever. Therefore, I ask why this invidious distinction has been made. While the Corporation can retain the services of those persons that have offended against the State, or suffered imprisonment in connection with other offences for 3 months or more, why should those institutions which come to the Corporation for grants be debarred from getting any grant, and why should they be asked to give an undertaking that they would not employ such persons? Sir, it has been said that there is no such distinction in the clause, but I find it there. The other clause 6A is only confined to those institutions only which are promoting primary education among boys and girls——

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir.

Mr. PRESIDENT: What is it?

Khan Bahadur Maulvi AZIZUL HAQUE: It is a point which might avoid discussion. I have put in a short-notice amendment which Government may accept and that will obviate all these discussions.

Mr. PRESIDENT: Why do you intervene at this stage? It is not a point of order. I do not think you can stop the member now in possession of the House.

Mr. P. BANERJI: Any way, Khan Bahadur Azizul Haque may bring his motion afterwards. As the amendment stands before the house, I am definitely of opinion that it is intended that no institution will receive any grant, or rather the Corporation will not be allowed to give any grant to any institution whatsoever. I can understand the case of those institutions that have employed persons for many years who offended against the State or suffered imprisonment. But at the present moment we can, by citing instances, prove to the Minister that even in the departments of Government there are persons employed who have offended against the State and suffered imprisonment. You may make inquiries in the Industries Department and also other departments where persons who were convicted of offences and who were sent to the Andamans are in the employ of Government to-day. Sir, Khan Bahadur Momin says that there is no question of employment here. I say that this question is of vital importance, because while Government can employ such persons, the Corporation, as was pointed out, cannot employ such persons in future, but they can keep those persons who are already in their employ. But the institutions that will come to the Corporation for grants will be denied grants on that excuse. In that case, what will be the position of the Corporation? The Corporation Councillors, instead of looking after their ordinary duties like the Government, will have to maintain another department like the Criminal Investigation Department. Sir, Government have so far failed to do any good by employing the Criminal Investigation Department. It may be in the knowledge of many that there was a time when this department was going to be abolished by the Government. Sir, the Hon'ble Minister wants that a department like the Criminal Investigation Department has to be introduced in the Corporation, otherwise may I inquire of the Hon'ble Minister how would it be possible for the Corporation Councillors to allow grants to these institutions unless a department like the Criminal Investigation Department were maintained to report to them which of the institutions were entitled to receive grants? It is only on that condition that it will be possible for the Corporation to act up to this clause. Sir, I therefore think that it should be the business of the Government and the Criminal Investigation Department to report to the Corporation, but the Hon'ble Minister nowhere suggests any provision like that. Now, Sir, the

Hon'ble Minister has often said that the intention of the whole Bill has been to save money of the poor tax-payers, but here by introducing this clause it will be found that more money will be unnecessarily wasted by establishing a department similar to the Criminal Investigation Department maintained by Government. Therefore, the object of the whole Bill is that those institutions which receive grants from the Corporation may not flourish and the grants will be automatically saved and if the Corporation wants to maintain a department like the Criminal Investigation Department the sanction of Government will be necessary and they will think several times to incur this expenditure for fear of surcharge which, as my hon'ble friend said, will hang over their heads like the sword of Damocles. The result will be more waste of money and they will naturally not venture to spend money for fear of surcharge and they will not give any grant. And, therefore, whatever good was done by the present Corporation will be wasted and all further progress will be hampered. Our fear is that this money will naturally be wasted, and it will be easy for the Hon'ble Minister to keep out all those people who go to the Corporation with a view to do good to the people, and the money which was being wasted from a long time past will continue to be wasted in the same way as before both in matters of contract and also in regard to electricity which concerns the pet child of Lord Meston. With these words, I propose that this clause be deleted.

Mr. SHANTI SHEKHARESWAR RAY: I support the amendment moved by my friend, Mr. P. Banerji. I shall confine my remarks mainly to the first clause, I mean clause 6. Sir, in giving approval to this clause the House will be taking a great responsibility. I am afraid the Government do not as yet realise what is going to be the effect of this policy. I do not know whether the provision embodied in this clause has been accepted as a considered policy by the Government; I do not know whether the Government have issued any instructions to their officers that in future appointments under the Government this policy of keeping out the civil disobedience prisoners should be followed. If the Government have not issued any such instructions, it is hardly fair to ask the Corporation of Calcutta to introduce this provision and create discontent among a large section of the population. Sir, you will notice that this provision will apply not only to the employees of the Corporation, but all institutions that may receive grants from the Corporation. I would ask the House to realise the far-reaching effect of this proposal. I would ask the House to realize the impracticability of enforcing such a provision. I would ask the House to realize the invidious distinction that is going to be made even between the employees of the Corporation and the employees of the Corporation and the employees of such institutions. As the House is aware, so far as the Corporation employees are concerned, after a lapse of a certain

number of years their disqualifications will cease to have effect. But so far as these institutions are concerned, their position will be quite different; the disqualification will last for ever, so if any such provision is necessary, it is desirable that similar modification should be made in connection with appointments in these institutions. Sir, I would ask the Government once again to reconsider their policy in this matter. Sir, the intention of the Government has been repeated more than once by the Hon'ble Minister. It is this, that they are going to keep out the persons who have been convicted of political offences, and in that is included offence in connection with the civil disobedience movement, from getting any service either under the Corporation of Calcutta or in institutions receiving any help from the Corporation. Admittedly this is going to be a part of the big drive to keep out these undesirable persons from any service whatsoever. I would ask the Government seriously to consider what the effect of this policy would be. So far as the civil disobedience prisoners are concerned, I think there must be several thousands in Bengal and several lakhs in the whole of India. Is it politic on the part of Government at this time to let them feel that there is not going to be a reconciliation, but that the Government will adopt a vindictive attitude towards them? At the present moment there are three schools of thought in the country. There are people who are in favour of continuing the civil disobedience movement; they are mainly Congress men who perhaps, though not very much convinced of the efficacy of the movement, have joined the movement due to their loyalty to the great institution. Then, there are men like us, the constitutionalists, who believe in working the constitution; and then there is another school of thought, the terrorists, who want to achieve their object by direct action, that is, those who have lost all faith in the sense of justice and fair play on the part of the British Government——

Mr. PRESIDENT: Is it necessary for your purpose to labour that point?

Mr. SHANTI SHEKHARESWAR RAY: Just a minute please to develop my point. My point is that by keeping the civil disobedience prisoners out of employment at this particular moment and by adopting this policy towards them at this juncture, Government is doing a great blunder, because these people, if they feel that Government is not going to let them settle down, will in despair go over to the third school of thought. So my warning to the Government is that if they do not want a further accession of strength to the terrorist movement, they should think twice before they adopt this policy of retaliation towards the non-violent workers in the cause of the motherland.

Mr. NARENDRA KUMAR BASU: Sir, I rise to support the amendment——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I intervene at this stage and suggest that if the Khan Bahadur moves his amendment, it would be much better.

Mr. PRESIDENT: If the Khan Bahadur is ready, he may move his amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that in clauses 6 and 6A, in the proposed sections 88A and 91A, respectively, for the word "employs" the following be substituted, namely:—

"has after the commencement of the Calcutta Municipal (Amendment) Act, 1933, taken into employment."

My object in moving this amendment is that the word "employs" might be misinterpreted.

Mr. NARENDRA KUMAR BASU: I think the Khan Bahadur should have moved his motion after the amendments relating to the deletion of the clause are disposed of.

Mr. PRESIDENT: I see your point. But in the event of this amendment being accepted, the House may not think of omitting the clause altogether.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, the object of this motion is to rule out the possibility of anything of a retrospective character. It is intended that if, after the passing of the Act, any institution employs a person convicted of an offence against the State, it should be penalised. With this object in view, I formally move the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I may inform the House at this stage that Government are prepared to accept this amendment.

Reverend B. A. NAG: Sir, there seems to be some difficulty in connection with this amendment, which I would like to place before the House. We have already provided that if a man, who is already in the service of the Corporation, is convicted of an offence against the State, he shall be deemed to be dismissed from service. The amendment of Khan Bahadur Maulvi Azizul Haque, if accepted, will apply only to the private institutions which employ, after the commencement of this Act, any person convicted of an offence against the State, but it does not refer to the persons who may be convicted of such offences and there is no provision against such people.

Mr. NARENDRA KUMAR BASU: Sir, if the House accepts the amendment which has been moved by the Khan Bahadur, one of the objections to the two clauses disappears, but I have got several other objections to section 88A and I shall try to place them before the House. My first difficulty is that I do not understand how this clause can be made workable. With your permission, Sir, I shall read the clause after incorporating the amendment suggested by the Khan Bahadur: "Subject to the provisions of section 91A and notwithstanding anything contained elsewhere in this Act, no grant shall knowingly be made by the Corporation, without the previous sanction of the Local Government, for any purpose other than the purpose mentioned in that section to any institution which has after the commencement of the Calcutta Municipal (Amendment) Act, 1933, taken into employment" and so forth. It seems to me that for the purpose of making a grant, the Corporation has first to ascertain the nature of the employees of any particular institution, and if they have any information that one or more persons employed in that institution are suffering from the disqualification mentioned in this clause and they still think that the grant ought to be made to that institution, then they will have to go to the Local Government and then they can prepare their budget. I submit that so far as this clause is concerned, the Corporation has to make its grants to numerous libraries, reading rooms, sporting clubs, hospitals, fire brigade, zoological garden, etc., and under the law they have got to make some grant to the Calcutta Improvement Trust. It will be necessary for the Corporation between 10th February and 27th March to write to each of these institutions and for these institutions to make inquiries as to whether any of them has got any person suffering from the disqualification, and then after receipt of the replies from these institutions to apply to the Local Government as the case may be. I submit that would be a herculean task and having regard to the dire consequences the members of the Corporation are likely to suffer from if this clause is violated, I think the easiest procedure would be to stop all these grants. But they cannot stop some of them; I mean the statutory grant made to the Calcutta Improvement Trust, and that is not excepted from the operation of this section. Therefore, if there is a menial in the employment of the Calcutta Improvement Trust who suffers from the disqualification laid down in the latter part of the section, then each of the members of the Corporation are liable to be surcharged. The intention of Government may be good or bad, but that is another matter. My point is that in carrying out their intention, which I may point out they had not when the Bill was first introduced, they have drafted a section which is absolutely unworkable in practice. Either make it a dead letter altogether, that is to say, you shut your eyes to the large number of people employed in all these institutions and make no effort to find out whether there is any man in these institutions who is suffering from the disqualification, or you

have got to stop the grant absolutely. I do not see any *via media*. Suppose that in the Fire Brigade there is a *khalasi* who was at one time or other sentenced to imprisonment for 3 or 4 months. If that is known to one of the Commissioners, it will be the bounden duty of the Corporation before it makes any grant to the Fire Brigade to run up to the Local Government for previous sanction. Similarly, there are a large number of libraries, sports clubs, or the Zoological Gardens for the matter of that to which I understand the Corporation makes a grant, to make any grant to which the Corporation will have to inquire whether there is any employee there who may have been a political offender. It may be that some of the employees of the Zoological Gardens have been convicted—it does not matter whether it is civil disobedience or not——

Mr. PRESIDENT: Do you mean the young monkeys of the Zoological Gardens. (Laughter.)

Mr. NARENDRA KUMAR BASU: No, Sir, I am not referring to the inmates, but to the staff, menial and ministerial, who look after them. As I was saying, Sir, it does not matter whether their offence has been civil disobedience or not, because the disqualification attaches to any person who has ever suffered imprisonment for 3 months or more. I submit, therefore, that it is for serious consideration of the House whether this clause will be workable at all.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am afraid that my friend Mr. Narendra Kumar Basu has exaggerated the difficulties of the applicability of this clause. What really section 88A provides is a natural corollary to clause 4 which has been passed by this House. In clause 4 it has been stated that the Corporation is not to employ under its service anybody who suffers under the disability mentioned therein, namely, that he has committed an offence against the State or that he has suffered rigorous imprisonment for 3 months or more. That applies to all institutions which are directly under the Corporation. Besides these institutions, which are departmental ones under the control of the Corporation, there are others which are in the position of aided institutions. For instance, there are municipal primary schools and primary schools run by private individuals but aided by the Corporation. Similarly, there are other institutions such as Byam Samiti, Narisikha Samiti and a host of others which are aided by the Corporation but which really belong to private parties. What is intended is that, if the Corporation is precluded from employing undesirables directly under them, they ought similarly not to give any assistance to institutions which in their turn employ undesirables; that is the whole point. As regards difficulties which have been mentioned

by Mr. Narendra Kumar Basu, I would like to draw his attention to the word "knowingly." Here it has been definitely said that this Bill applies only where the Corporation knowingly gives aid to institutions which employ such undesirables. The examples which he gave, *viz.*, the Zoological Gardens and the Fire Brigade, to my mind, are not the institutions which are intended to be treated under section 88.

Mr. NARENDRA KUMAR BASU: What are the other sections under which this will come?

Khan Bahadur MUHAMMAD ABDUL MOMIN: No section in this Bill will apply to them, but if they do apply, there is the safeguard and the harmful effect of section 88 can be obviated by taking the sanction of Government. Obviously, the institutions which are patronised and supported by Government do not employ undesirables. If somebody shows that they do, in that case, Government will have to take action in the same way as the Corporation have to. I do not think there will be any difficulty in practice; the spirit of the clause is well known. If, however, experience shows any difficulty, it may be remedied afterwards just as any other clause in which lacunæ might be found in course of time will have to be remedied. But the spirit of the clause is in perfect consonance with clause 4, which we have passed.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I strongly support the amendment. My friend Mr. Momin has explained to us the spirit of the section, about which I believe no one in this House has any illusion up to now. Sir, there is no use going into the question of the spirit; it will serve no useful purpose discussing at the present stage whether it is just or unjust, proper or improper. The section as drawn up is impossible, and I will point out why. My friend Mr. Narendra Kumar Basu has referred to some objections, but I will refer to others. The section will apply in cases where a grant has been "knowingly" made by the Corporation. Now, you must remember in this connection the clauses with regard to surcharge. The surcharge is to be made by the auditor with reference to this section. Therefore, he must make up his mind as to whether a particular grant was made by the Corporation knowingly or not. There is an amendment tabled by the Hon'ble Minister which seeks to define the word "knowingly." Sir, it is rather difficult to determine that, but the Hon'ble Minister has sought to solve the riddle by referring to a "notice" on the Chief Executive Officer. If a matter has been brought to the notice of the Chief Executive Officer according to the definition as suggested by the

Hon'ble Minister, the Corporation is supposed to have "knowingly" made a grant—although individual members of the Corporation who have voted for the grant may not have any knowledge of it—and forthwith it becomes an illegal payment and the auditor will have to make a surcharge, whether the particular voter did as a matter of fact know or did not know that it was illegal. Then "knowingly"—what would then know and what must be known? No grant shall be knowingly made by the Corporation; that is, the Corporation shall not make any grant with a certain knowledge, but what is that certain knowledge? In this very complicated and inartistic sentence which constitutes this section there are several things which might be easily conceived as the subject of the knowledge and it does not make it clear what particular knowledge the Corporation should bring into play in making a grant: knowledge I presume is nothing other than knowing. Khan Bahadur Abdul Momin observed that the spirit of the section was quite clear, but we are not legislating in spirit, we are legislating in words. The spirit is that there should be "knowledge" that a particular institution employs persons who may be objectionable in a particular direction; but that does not follow from the language; that "no grant shall be made knowingly by the Corporation without the previous sanction of the Local Government for any purpose, etc." I think here "knowingly" in the collocation in which it appears refers to purpose, with the knowledge of any purpose other than the purpose mentioned in the section. It does not refer according to the collocation to the more remote clause which refers to any person or persons.

Then in the next place, an institution which employs a person who is a political offender is penalised in this way, that no grant can be made to it by the Corporation. It is not necessary for the purpose that that institution itself should know that the person employed is an offender, nor that the person so employed is knowingly employed by them as an offender. Therefore, a perfectly innocent-looking man, for instance, a man like my friend Maulvi Tamizuddin Khan might be employed by the institution in perfect ignorance of the fact that he had possibly ever been in jail, but nevertheless if the Corporation makes a grant and at the time when it so makes the grant if the Chief Executive Officer happens to know that he had been in jail but he has not brought it to the notice of the Councillors this expenditure must be surcharged.

The next thing is an anomally, as Mr. Nag has pointed out and that is the provision about automatic dismissal which we have in connection with clause 4 does not appear here. What would happen in the case of a person who has been appointed before but who commits an offence afterwards; that is not provided for here, so that such a person might continue to go on while others may not be appointed. With regard to the appointments made by the Corporation, several safeguards

have been provided. For instance, there is the provision that at the time of applying for an appointment, the person must make a declaration under the penalty of prosecution as to whether he has ever been in jail, or if he has been in jail, for what offence and for what period. There is no such thing in respect of any other institution to which a grant-in-aid is being given. Therefore, in the case of the Corporation, while there is a rough-and-ready way of ascertaining as to whether a particular person has been in jail or not, there is nothing provided here in accordance with which the Corporation can ascertain the fact about a person being employed as one of the employees of that institution. There is section 54BB which makes a very important point of difference. Under section 54BB the Local Government may, by notification, exclude any class of appointments or any class of persons from the operation of the previous clauses of section 54, but Government in the case of an institution has no power to exclude from the operation of this clause certain appointments generally. Therefore, the operation of this clause would be far more troublesome, far more cumberous and far more impracticable, if not impossible, than in the case of the Corporation employees. In the case of the proposed section 91A the position is slightly different because when there is a primary school aided by the Corporation, the Corporation has got its inspectors and list of teachers with them. But in the case of other institutions it would be absolutely a colossal task, which would be practically impossible for anyone.

Then there is one other thing. The question as I have said ultimately dissolves itself into a question as to whether in a given case there should be surcharge or not and whether the auditor should make a surcharge. We were told that the auditor is not a judicial authority; we were told that he is merely an executive authority and surcharge will operate automatically. But by putting the word "knowingly" and proceeding to put in another word, knowingly, between the word "which" and the words "employs any persons" as you must, you are making it impossible for the auditors to go on automatically as they will have to decide on the very important question of knowledge. If the auditor is not in a position to determine the question of good faith of a person, who makes the payment, how will he be in such a position as to determine the knowledge of that party? The knowledge may be boiled down, as the Hon'ble Minister himself suggests, to the knowledge of the Chief Executive Officer and the knowledge of the Chief Executive Officer resolves itself into a question of fact—a particular state of mind of a particular person, which has to be adjudicated upon by the auditor. The task of the auditor in giving effect to this section would be tremendous, and the only way he would be able to give effect to this section is simply to ignore it. I submit that it is no use quarrelling now with regard to the basic principle of this section. Even if those principles are accepted, I am not content like Khan Bahadur Abdul

Momin to legislate merely the principle—we do not legislate the principle or the spirit, we legislate the words, and no matter what your intention may be, in giving assent to the words when the matter comes to the Court or has to be given effect to by an executive body, it will not look at the intention or spirit, but it will look at the exact words. Even assuming that the principle is all right, and that we want that no grant should be made by the Corporation with a definite knowledge that the institution to which a grant is made knowingly employs a person who is a political offender or a person who has been in jail for three months or more, this is not the section by which you can give effect to it. Government have got to take a little more time in drafting it to provide for contingencies and safeguards which would be necessary to make it practical—safeguards like section 54BB and certain other clauses of clause 4—by which it would be automatically determined whether any particular institution which receives a grant is employing a forbidden person or not. All these things have got to be done in detail, and unless these things are done, you cannot assent to the section as it is. I ask the members to remember that they are not assenting to the principle merely, but are assenting to the words, and the words are objectionable in the way I have mentioned. My suggestion would be that the Government should give up this idea, and it would not hurt them very much. The Bill as it has been settled up till now can go on as it is, and this matter might be more fully discussed by the Government and might be embodied in a subsequent amendment. The question is not so very urgent with regard to the grants-in-aid to these institutions, and for that reason Government—although Government have been very loath to consider suggestions—should consider the reasonable objections and should give time and thought when time and thought are absolutely necessary. I hope that at long last they will at this moment consider and agree that this clause, as it stands, is full of difficulties and from that point of view they would cease to press it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In opposing this amendment, I may submit that clause 6 is a corrollary to clause 4 of the Bill and in order to stop evading clause 4, it is necessary that this disqualification should be extended also to employees of institutions to which the Corporation might be making a grant. In clause 4, it has been provided that anyone suffering from the disqualification should not be employed in the Corporation service. Suppose, Sir, if the Corporation decide to make grants to institutions which will go on employing persons suffering from the disqualification, then clause 4 would be altogether evaded. So it is very necessary that in order to give effect to the Bill there must be a clause like clause 6. It is absolutely necessary; it is difficult for Government to give it up as was suggested by several speakers before me. The difficulty, according to Dr. Sen Gupta, is with regard to the word "knowingly." If it is

brought to the notice of the Corporation through the Chief Executive Officer that such and such institutions employ persons suffering from disabilities, it would be the duty of the Corporation to refuse to make grants to those institutions. Mr. Basu said: "How would the Corporation know that there were persons suffering from disabilities in any institution to which the Corporation might give a grant?" My reply is that the Corporation should make it a condition precedent to making a grant that the institutions must submit a list of the persons whom they employ: it is their duty to know who are the persons employed. If the Corporation decide before the grant is actually sanctioned that they should scrutinise the list of names which may be supplied to them by the institutions, the difficulty will be very easily outcome. The Chief Executive Officer is the principal officer of the Corporation, and certainly it is his duty to place before the Corporation any information that may be sent to him. Sir, we are legislating with reference to the Corporation grant, and we are not legislating with reference to the institutions which might ask for Corporation grants. Government, therefore, left out these institutions from the scope of the Bill. If the Corporation come to know that a particular institution has employed persons suffering from disabilities, it will be the duty of the Corporation to refuse to make a grant to such an institution.

I oppose this amendment.

Dr. AMULYA RATAN GHOSE: Sir, I also tabled the same motion, and as you have been kind enough to permit that those who have given notices of amendments but have not moved them can speak on the subject, I hope you will permit me to say a few words.

Mr. PRESIDENT: Yes, you may.

Dr. AMULYA RATAN GHOSE: Sir, the Hon'ble Minister's reply has not convinced us, and I do not think that his reply is just to the point and has met all the points raised by the previous speakers, Dr. Sen Gupta and Mr. Narendra Kumar Basu. What is proposed by this clause is certainly one which has no parallel in any of the institutions or in any of the local bodies now in Bengal. I do not think there is any such section in any Acts for municipalities, district boards or local boards all over Bengal, and even in the institutions managed under the supervision of the Government of Bengal, these things are not present. If it is the object of the Government to prevent the Corporation from employing undesirable persons in the schools and other institutions under their direct supervision and control, I think that purpose has already been served by some other clauses of the Bill. But the Corporation should not be held responsible for appointments in

such institutions on which the Corporation have no direct control, and it would practically be impossible for the Corporation to give grants-in-aid to such institutions if they have to make such grants after all these searching inquiries and scrutiny. The object of the Bill, as we have been given to understand, was to prevent the Corporation from employing undesirable persons. It was not stated then that the Corporation would also be compelled to see that other institutions which are not under their control should not employ such undesirable persons. Is it not too much to expect the Corporation to do the duties of the police and to see that undesirable persons are not employed in institutions which are run by some private bodies or individuals because in that case the Corporation would have to open a new department to see that such people are not employed there. That will involve the Corporation into large expenditure and the Corporation will be certainly burdened with a task which, I think, should not be thrust upon them. This is one aspect of the question, and another is whether these persons, who were once convicted or once found doing something wrong, were to be debarred from getting employment throughout their lives. It will become a serious problem if such persons are not to be allowed to secure employment anywhere in the province. What will they do then? I do not think Government should be so vindictive as not to allow these persons to earn their honest livelihood, after they had once committed an offence, for ever in their lives. If they are thus to be debarred from earning their honest livelihood, they might be driven to desperation and they might swell the ranks of terrorists whose activities Government as also the people sincerely want to suppress. Instead of that it will rather be an incentive because, as these people committed misdeeds once in their lives, they will not have a single chance even to correct themselves, earn an honest livelihood and turn out honest citizens. Therefore, Sir, I support the amendment.

Mr. H. P. V. TOWNEND: Sir, I do not think any reply is necessary because the points raised by the previous speaker were met in the reply to Mr. P. Banerji's motion.

Mr. P. Banerji's motion that clause 6 be omitted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Nassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Poddar, Seth Hanuman Prosad.
Rai Mahasai, Maniendra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nagendra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Ashwori	Mitter, Mr. S. C.
Banerji, Rai Bahadur Keshab Chandra.	Mittra, Babu Sarat Chandra.
Banerjee, Babu Jitendralal.	Momin, Khan Bahadur Mahammad Abdul.
Barma, Rai Sahib Panchanan.	Mullick, Mr. Mahundo Bahary.
Birkmyre, Mr. H.	Nag, Reverend B. A.
Bose, Mr. S. M.	Nandy, Maharaja Sris Chandra, of Kasimbazar.
Bottomley, Mr. J. M.	Nazimuddin, the Hon'ble Mr. Khwaja.
Burn, Mr. H. H.	Nelson, Mr. W. N.
Dain, Mr. G. R.	Philpot, Mr. H. C. V.
Das, Rai Bahadur Kamini Kumar.	Poddar, Mr. Ananda Mohan.
Edgley, Mr. H. G. A.	Prentice, the Hon'ble Sir William.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.	Rahman, Mr. A. F. M. Abdar-.
Fawcus, Mr. L. R.	Rahman, Maulvi Asizur.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildaar.	Ray, Babu Amulyadhan.
Gilchrist, Mr. R. N.	Ray, Babu Khetter Mohan.
Gladding, Mr. D.	Ray, Babu Nagendra Narayan.
Goenka, Rai Bahadur Badridas.	Ray Chowdhury, Mr. K. G.
Guha, Babu Profulla Kumar.	Ray Chowdhury, Babu Satish Chandra.
Guha, Mr. P. N.	Roy, the Hon'ble Sir Bijoy Prasad Singh.
Haque, Khan Bahadur Maulvi Azizul.	Roy, Babu Hariharan.
Hogg, Mr. G. P.	Roy, Mr. Satiswar Singh.
Hooper, Mr. E. C.	Ray, Mr. S. N.
Hosain, Rawab Mosharruf, Khan Bahadur.	Sahana, Babu Satya Kinkar.
Hussain, Maulvi Mahammad.	Sarkar, Rai Sahib Rohati Mohan.
Hussain, Maulvi Latafat.	Sen, Mr. B. N.
Kasem, Maulvi Abul.	Sen, Rai Bahadur Girin Chandra.
Khan, Khan Bahadur Maulvi Muazzam Ali.	Solaiman, Maulvi Mahammad.
Khan, Mr. Razaur Rahman.	Steven, Mr. J. W. R.
Maguire, Mr. L. T.	Sumner, Mr. C. R.
Miller, Mr. C. C.	Thompson, Mr. W. H.
Mitter, the Hon'ble Sir Provash Chunder.	Townend, Mr. H. P. V.
	Wilkinson, Mr. H. R.
	Woodhead, the Hon'ble Mr. J. A.

The Ayes being 18 and the Noes 64, the motion was lost.

Clause 6A.

The motion that clause 6A be omitted was put separately and lost.

Khan Bahadur Maulvi Azizul Haque's short-notice motion that in clauses 6 and 6A, in proposed sections 88A and 91A, respectively, for the word "employs" the following be substituted, namely—

"has after the commencement of the Calcutta Municipal (Amendment) Act, 1933, taken into employment"

was then put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in clause 6, the existing explanation to proposed section 88A be numbered as Explanation 1, and after the explanation as so numbered the following explanation be added, namely:—

"*Explanation 2.*—If any fact is communicated to the Chief Executive Officer, the Corporation shall, for the purposes of this section, be deemed to have knowledge of that fact."

I move this in respect of both the clauses 6 and 6A. I do not think it is necessary for me to say anything in support of this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to oppose this amendment, and I have already explained my reasons. It is a most extraordinary provision. It imputes knowledge and not merely a presumption of such knowledge to the Corporation by the mere fact that it is communicated to its Chief Executive Officer. How can you even presume that the Corporation has knowledge of the fact simply because it is communicated to the Chief Executive Officer. Suppose the Chief Executive Officer forgets it or for some other reason he does not bring it to the notice of the Corporation and the Corporation makes a grant. Nevertheless, the Corporation must be conclusively taken to have the information and to have knowingly made the grant. This is so supremely absurd that I do not think any further argument is necessary for its rejection.

The motions were put in respect of both clauses 6 and 6A and were agreed to.

Mr. P. N. GUHA: Mr. President, Sir, I beg to move that in clause 6, after proposed section 88A, the following be inserted, namely:—

"88B. No application or proposal for a grant of any kind to an institution, project or scheme shall be entertained by the Corporation unless made in the forms prescribed. The signatory or signatories to such forms who may secure a grant of any kind from the Corporation by suppressing or avoiding informations required to be given in the prescribed forms shall jointly and severally be punished with fine which may extend to one thousand rupees and person or persons so convicted shall be jointly and severally liable to refund the entire sum of money drawn from the Corporation as also to restore any property that may be involved in such grant."

Sir, I am fully aware of the fate of my amendment, yet a sense of duty compels me to move it. The difficulties that were felt by my friends on the other side with regard to the working of the section which has just been passed were uppermost in my mind when I tabled this amendment. It has been provided that the Corporation shall not make any grant to any institution which employs political convicts. This means that the Corporation shall, before making any grant, have to find out which institution employs political convicts and which does not. This is a task almost impossible to accomplish. My friend, Mr. P. Banerji, has said that the Corporation distributes grants to 2,000 institutions. That is not correct. There are about 300 primary schools, 100 libraries, 50 hospitals and about 50 institutions of other kinds—in all about 500 institutions which receive grants-in-aid from the Corporation. If each of these institutions employ five persons on an average, then the records

of about 2,500 persons have to be scrutinized before making grants. Is not that an impossible task? The Hon'ble Minister said a little while ago that the Corporation could easily ask the authorities of the institutions to supply the necessary information. That is exactly what I want, and it is for that reason that I have in my amendment placed the burden on their shoulders. Sir, you will see that my proposal is that no application for a grant of any kind shall be entertained by the Corporation unless made in the forms prescribed, which means that the Government shall have to draw up a form in which the institutions seeking grant from the Corporation shall have to make a declaration with regard to their employees. I have taken good care to make provisions for the punishment of those who may make false declarations. My proposal is that the signatory or signatories to such forms who may secure a grant of any kind from the Corporation by suppressing or avoiding information required to be given in the prescribed form, shall jointly and severally be punished with a fine which may extend up to Rs. 1,000 and person or persons so convicted shall be jointly and severally liable to refund the entire sum of money drawn from the Corporation as also to restore any property that may be involved in such a grant. The Hon'ble Minister said that they were legislating to regulate the affairs of the Corporation only and so the Government could not possibly drag other institutions in. This is a queer logic, specially in view of the punishment that has been provided for persons securing employment under the Corporation by false declaration. Men and women serving under the Corporation receive monthly emoluments and institutions receiving grants get yearly emoluments. Both take money out of the funds of the Corporation and so where is the difference? If you can compel one class to make a declaration, then there is no earthly reason why you cannot compel the other.

Sir, there is another side of the issue and to that I want to draw the pointed attention of the House. Various institutions in the city receive grants-in-aid from the Corporation, but is the Hon'ble Minister aware that the Corporation make gifts of the land they own to many institutions? And these lands though valued at lakhs, never come within the purview of the auditors. They have never known anything about the gifts of the lands and at no time they shall know which piece of the land owned by the Corporation is given to which institution and so lands worth lakhs and lakhs will go without the least possible chance of knowing if such lands have gone to institutions employing political convicts. Lands have already been granted to many institutions and my information is that many applications are pending on that behalf. Sir, is not it a queer logic that the Corporation shall not be able to pay a rupee to an institution employing political convicts, but they will be free to make a gift of a piece of land worth a lakh of rupees to such an institution? My amendment if accepted will effectively guard

all sides. In conclusion, I would like to point out to the House that the Corporation shall not without the help of a well-equipped Criminal Investigation Department be able to know the full history of each and every employee of an institution applying for grant and as such they will, as a matter of course, prefer not to make any grant to any institution for fear of the surcharge as the result of which many deserving institutions will disappear.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Mr. Guha suggests that the applications should be made in the prescribed form. The Corporation can always make it a condition of the grant as to how the application should be made, and I understand that even now applications are made in writing. So it is for the Corporation to decide how they should find out what class of people are employed in the institutions which seek grant. To do anything like what Mr. Guha says would be going beyond the scope of the Bill. It is not the intention of Government to bring in these various institutions within the purview of this Bill. This Bill does not refer to these institutions at all. I oppose the amendment.

The motion was then put and lost.

The motion that clauses 6 and 6A, as amended, stand part of the Bill was then put and agreed to.

Preamble.

The motion that the Preamble stand part of the Bill was then put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill, as settled in Council, be passed.

I must thank the hon'ble members of this House for their co-operation and the decisive support which I have received in piloting this measure. As I mentioned before, there were during the last ten years of the working of the Corporation, several instances of default and the attention of the Corporation was specifically drawn to some of them. The Corporation was given sufficient opportunity to mend matters, but that opportunity was not availed of. Government, therefore, had no other alternative but to draw the attention of this House, which is after all supreme, by initiating legislation. It is the duty of the Executive Government to draw the attention of the House to the fact that the wishes of the Legislature were not being respected and that the Act was not being worked in its proper spirit. During the last few days, in the course of the discussion of the Bill, I think Government have made it sufficiently clear that if this Bill be passed into law, it

will not in any way touch the autonomy of the Corporation, will not in any way affect the privileges and rights of the rate-payers, but will act merely as a salutary check. In the Press as well as in this House there were definite attempts to misrepresent the object of the Bill, but I am confident that in course of time when the present controversy will be over and the rate-payers of Calcutta will realise the real object of the Government in placing this measure before the Council, it will be welcome. In the perilous journey of public life approbation of one's conscience is the highest reward, and I may confess that I have that in abundance. Sir Surendranath Banerjea was abused and howled out of public life, nay, out of this world, but now his reputation is adequately vindicated in the bar of public opinion, and I appeal to that tribunal.

Mr. SYAMAPROSAD MOOKERJEE: The end of this debate which has been prolonged beyond the expectation of many is at last in sight. In the course of discussion the supporters of Government placed before the House all sorts of arguments, possible and impossible, in justification of this measure. It was left only to a few members of this House to refute those arguments which were advanced on behalf of Government, and we claim that we have succeeded in challenging their validity to the satisfaction of those whose eyes are not prejudiced and who are prepared to look at things at their proper perspective. So far as the provisions of the Bill are concerned, they are indeed of a drastic nature. There is one aspect of the question which one cannot ignore. So far as the provisions are concerned, they are directed mainly against the activities of a certain class of individuals who belong to a particular political group. In his anxiety to satisfy the wishes of persons who wanted to see the power of the Congress party crushed in the Corporation, the Hon'ble Minister has achieved something more. He has succeeded in reducing the powers of the Corporation itself. I have often wondered in the course of this debate as to what exactly is the reason why the Minister is so angry with the Congress party in the Corporation. I can understand the attitude of hostility of the European members towards the Congress generally; the reason is obvious; I can even understand the attitude of Sir William Prentice who is so anxious to fight the Congress to a finish; I can even understand the attitude of certain members of this House, elected and nominated, who, fortunately or unfortunately, have been ousted from their position in the Corporation mainly on account of the Congress. But I would have thought that so far as the present ministry was concerned, they would remain under a deep and eternal debt of gratitude to the Congress. The fact remains that the present Ministers have been in office longer than any of their predecessors. They may perhaps claim that it is due to their ability, but others might doubt it and say that it was rather due to the disappearance of the Congress block from this Council. We know

there were giants before them who occupied the office of Ministers. Men like Nawab Bahadur Sir Abdelkarim Ghuznavi and Nawab Musharruf Hosain—to mention only two—have disappeared from the ministry, but our friends have merrily continued! Surely, we would have thought that the doctrine of indirect liability, recognised in the Bill in respect of Corporation employees, might with suitable modification be applied to the Ministers' attitude towards the Congress as well. On the other hand, the Hon'ble Minister has included provisions in this measure which really destroy the very fundamental principles of local self-government.

Let me proceed to the question of appointments. I have no desire to reopen points which have already been discussed. I am going to put the matter from a different angle of vision to-day. Sir, what about these appointments? There have been mischievous propagandists, lying propagandists, who made it their business to proclaim that the Corporation is a place where revolutionaries, terrorists and dangerous criminals were deliberately employed. We have now known that out of 5,000 employees of the Corporation there are only 50, who however do not belong to that category but have suffered imprisonment at some stage of their careers on account of certain political offences, mainly of a minor character. Now, Sir, the "retrospective" clause has been removed. Of course, I do not know on account of whose efforts this has been achieved. But the fact remains that it has been removed, and this is an evidence, a conclusive evidence, that Government must have been satisfied that so far as the present employees of the Corporation are concerned, there is none among them who is a revolutionary, a terrorist or a dangerous criminal—for I am sure that Mr. Thompson's group would never forgive the Hon'ble Sir Bijoy Prasad Singh Roy, or the present Government of Bengal, if, knowing that there were dangerous political criminals in the employ of the Corporation, they had allowed the clause to be deleted. That is a fact, Sir, which has to be remembered to-day when the debate is coming to a close. Indeed, the Calcutta Corporation stands vindicated in the eyes of the world, and I hope there will not be any occasion in the future when anybody whoever he may be, will have the courage to get up and say that the Corporation still employs terrorists or dangerous political criminals. Incidentally, this is also a tribute paid to the selective power of the past Corporation. In future, such persons will not be debarred permanently from the service of the Corporation, but they will get appointments if Government are satisfied that they are fit and proper persons. This discretion has in the past been wisely exercised by the Corporation. So far as future appointments are concerned, however, the power will be left in the hands of Government and not of the Corporation—on what principle we on this side of the House have of course failed to discover.

Now, Sir, let me come to the question of audit rules. My friend Mr. Narendra Kumar Basu has made it clear that there is none in this House who is opposed in principle to the formulation of wholesome rules with regard to audit. But the question is: How are those rules to be formulated, and where is the guarantee that such rules have been formulated in the interest of protecting the Corporation from financial irregularities and not from any other motive? Here also the bugbear of the Congress members is always present! If you analyse the rules you cannot but come to the conclusion that the framer of the Bill was more actuated by the desire to see how these Congress members could be brought to book and taught a lesson, than by a real anxiety to secure removal of financial irregularities. Sir, look at the attitude of Mr. Miller—a most surprising attitude. Mr. Miller in principle was agreeable to accept a certain amendment, but he could not do so; and why? Because certain members of this House had supported the Corporation, because, if that amendment were accepted, the Hon'ble Minister might be placed in an awkward position so far as its application was concerned! Sir, where was this anxiety on the part of Mr. Miller and the European group, so far as the other provisions of the Bill were concerned—there also the Hon'ble Minister was being given large powers of interference, was clothed with powers of final decision? The other day Mr. Miller described the attitude of the opposition as that of a school-boy. But does he forget his own attitude discloses the mentality not even of a school-boy but of a street urchin? Even a school-boy would be a little more sensible of his responsibility before he expressed an opinion like that.

So far as the question of audit is concerned, I will not refer to it in detail, but in order to show up the mentality of Government I may only refer to the fate of one or two amendments which received the support not of us alone but of men to whom the Hon'ble Minister invariably looked up for support, namely Khan Bahadur M. A. Momin and Khan Bahadur Maulvi Azizul Haque. Sir, the amendment with regard to the stay of the orders of auditors was one which protected the interests of the person surcharged; if he files an appeal, he need not make a payment until the appeal is heard and disposed of. Sir, a provision like that which also found a place in the English statutes could not be accepted by Government. This reference to English statutes reminds me of another aspect of the ministerial attitude. The Hon'ble Minister whenever confronted with a reasonable argument got up and said "Oh, refer to the English statute: I have copied it from there." Well, Sir, that is his Bible. Because a thing is in the English statute, forsooth, it must be in the Bengal statute also! Sir, I do not know since when the Hon'ble Minister developed this inordinate craze for the English statutes and English precedents.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They are as much your Bible as they are mine.

Mr. SYAMAPROSAD MOOKERJEE: Well, if they are really his Bible, is he prepared to follow the provisions of the English Statutes or English precedents in all matters? Is he prepared to sanction large grants for the improvement of municipalities and district boards in Bengal as Government has done in England? No, of course not. How can he do this?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, how can we do this, we have no money.

Mr. SYAMAPROSAD MOOKERJEE: Wait, please. Is he prepared to follow them up in other departments of the State? Is he prepared to call upon Sir William Prentice and his other masters that India should get responsible government because it is recognised in England? Of course not. Then, take the question of his salary. Is he prepared to accept a salary consistent with what the Ministers get at home? Of course not. No question of imitation arises in such cases. But if it is a question of the application or misapplication of English statutes so far as the curtailment of certain powers is concerned, then there are always the English statutes to fall back upon.

Now, Sir, about the question of audit. If audit and surcharge are so wholesome, may I ask, why not accept the rules for yourself? Mr. Narendra Kumar Basu knows better than many of us about the affairs of the Public Accounts Committee and he informed us only yesterday that there are numerous cases where departments of Government were criticised by the Audit Department for their financial irregularities. Well, Sir, is the Hon'ble Minister prepared to accept the same principle and apply it to his own case? Then, we on this side will watch and wait with interest for the day when this principle will be applied to all departments under the control of the Hon'ble Ministers and Members of the Executive Council, so that we may have the pleasure of seeing salaries cut and surcharged for irregularities for which they may be directly or indirectly responsible.

Now, Sir, we have heard a lot about the Calcutta Corporation during the last eight days. No one claims that this institution is a perfect one. Indeed no institution is perfect—not even the Government of Bengal as it is constituted to-day. But the fact remains that so far as the Calcutta Corporation is concerned, during the last seven or eight years, it has been responsible for the initiation of several schemes of paramount importance.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have always admitted that.

Mr. SYAMAPROSAD MOOKERJEE: Well, I am very glad to know it. The Corporation has introduced certain measures of reform which are calculated to advance the interests of the people of this city, and they have done so not under the directions of an I.C.S. Chairman, but the programme of work was enunciated by an ex-prisoner—an illustrious son of Bengal—the late Mr. C. R. Das. Sir, it is not my intention to go into details, but let me only refer to one or two items of outstanding importance. Take primary education first of all, for I know that my friend Mr. Dain is so keen about it. If you refer to primary education, you will find that in 1923, before the advent of the present regime, expenditure on that head was Rs. 1,48,000, whereas now, in 1932-33, the amount provided was Rs. 12,71,000. Surely Mr. Dain will be the first person to get up and support the Calcutta Corporation only for this if for nothing else! Look at the number of schools; it has increased to 223 and the number of students from 2,468 in 1923 to 30,000 now. Look also at some other departments, namely, grants for the improvement of sanitation, medical relief, etc. The grants under these heads have risen from Rs. 9,36,000 to Rs. 17,32,000. The amount of expenditure for hospitals and dispensaries was Rs. 2,42,000—mainly distributed among institutions under European management in those days—but now the figure is Rs. 6,46,000, mainly for the benefit of Indian institutions. So far as maternity units are concerned, the number of cases has increased from 3,000 to 7,000. So far as medical dispensaries are concerned, free dispensation was granted to 147,000 patients then, but now their number is 600,000. Surely, Sir, these are outstanding achievements for which any Corporation would feel proud; not only any Corporation, but any Local Self-Government Department, under which the Corporation works, should feel proud of these achievements. These achievements will stand the test of time, will outlive Ministers and ministries who will have blossomed and perished and sunk into the limbo of oblivion.

Sir, prior to the passing of the Calcutta Municipal Act in 1923 the Corporation was a close preserve of the bureaucracy, a place where Europeans dominated and Indians only came to play the second fiddle. That was the state of affairs in the Corporation then. Indeed, Sir, no less a person than Lord Curzon, who always held a high idea of his exalted personality, once said that next to Viceroyalty he would prefer the Chairmanship of the Calcutta Corporation. It was an act of superhuman courage, an act of real statesmanship—not the kind of statesmanship of which my friend the Minister talks of to-day—that was displayed by the late Sir Surendranath Banerjea when he transferred this responsibility and control to the elected representatives of the people,

and taking all things into consideration it must be said that the Corporation also has justified the confidence bestowed on it. That was an achievement of no mean order on the part of the great Minister; that was a great constructive work, a constructive work of which perhaps he alone was capable—a man of his imagination and patriotism, of his capacious brain and mighty intellect.

(At this stage the member reached the time-limit, but was allowed two minutes more.)

That was the picture then, Sir, and what is the picture now? It is true that the Hon'ble Minister will have the pleasure and privilege of passing this measure with the help of this Council to-day, but, Sir, what is the nature of this measure? It is nothing but a destructive measure, which is going to destroy at least partially the autonomy and power which the Corporation has been enjoying under the present Act; it is a measure which will reduce a great corporate body to an annexe of the Bengal Secretariat. It is nothing but a measure by which the Hon'ble Minister has bartered away national rights and national privileges. Sir, the work of destruction is always easy of achievement and indeed it is quite possible on the part of a person who is short-sighted and weak, for which however he will not be remembered by posterity with any affectionate remembrance and gratitude, but with utter feelings of shame and humiliation.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Mr. W. H. THOMPSON: Mr. President, Sir, that you are no respector of persons is amply proved by your permitting so mean a person as a street urchin to catch your eye at this moment. I am, Sir, one of those long suffering members of this Council who have not spoken during this long and stormy debate. But in spite of the few splutterings of thunder just before tea it does seem that the storm is almost over, and I hope in a few minutes, the weather permitting, to be able to congratulate the Hon'ble Minister on behalf of this group on the passing of this Bill in a form which has commended itself to so large a majority of this House. The other side has fought a desperate rearguard action much of it with blank ammunition, but the battle is practically over, and we may almost begin to count up the results. The Hon'ble Minister did not attempt to take up the Calcutta Municipal Act and frame an amending Act to eliminate all the difficulties in the working of it. What he did was to take one point and to legislate specifically upon it and tighten things up generally by applying the principle of surcharge which is after all no more than an ordinary method of control of local bodies practised in the country in the world in which the development of those local bodies has gone furthest. I could not follow

the last speaker's casuistry in finding that the passage of this Bill in its present form through this Council has been a pat on the back for the Calcutta Corporation. The Bill is obviously not a panacea for all the ills which the Corporation may be heir to. I feel rather that it is a hint given by the electors of the province of Bengal through their representatives in this House that they were not satisfied with the way in which the Corporation's business was being carried on. There has recently been a re-election in the Corporation with a considerable change in the personnel of the Councillors. The new Mayor is a man for whom I have a very considerable respect. There are members who think that the Bill was possibly an unnecessarily broad hint for him, but in all assemblies there are back-benchers and the back-benchers in the Corporation are certainly not controllable or amenable to discipline as the back-benchers in the mother of parliaments. As far as the controlling wing of the Corporation as a whole is concerned a very broad hint was necessary. Now, Sir, let us hope that this hint will be taken by the Corporation as it is meant; let us hope that no one will court the penalties of this Act in the mistaken idea of acquiring merit by self-sacrifice. Let us even hope that possibly none of these penalties will have to be enforced at all and that the relation between what is by far the largest local governing body in this province and the provincial Government itself may ultimately be welded into harmony.

Babu JITENDRALAL BANNERJEE: Sir, I did not want to speak. The different clauses of the Bill have been carried with such overwhelming majorities and the Bill itself,—I feel in my bones—is going to be carried with such an overwhelming majority that I thought that it would not be necessary for us to speak. Sir, there are people who claim in season and out of season that it is they who represent the people of the country and that the Council is unrepresentative. Sir, there is no instrument, by which you can find out who represents the country and who does not, but this modest claim I can make on behalf of myself and others that we, at any rate, are here by the vote and suffrage of the people of the country. Therefore, we are justified in claiming that we do represent the opinion of a certain section of opinion in the country; and the overwhelming majority with which the members have passed the different provisions of the Bill, that by itself constitutes a judgment upon the Calcutta Corporation.

So far as the Bill itself is concerned, it is not necessary for me to speak; but, Sir, things have been said here, especially by Mr. Syama-prosad Mookerjee, which require a word of comment. Mr. Mookerjee began by paying—it was an entirely superfluous proceeding—but—he began by paying a compliment to the Congress and by singing a song of praise in defence of the Congress. This was unnecessary. The Congress does not require to be defended by him or anybody else. But

the compliment came with a bad grace from Mr. Syamaprosad Mookerjee, because I cannot help remembering that if Mr. Mookerjee to-day is in this Council, it is because of his defiance of the Congress. He was sent to the Council on a mandate which he has disobeyed and disregarded. Therefore, the compliment to the Congress came with a bad grace from him. He took also, in vain, the name of Sir Surendranath Banerjea once again in this Council. For Mr. Syamaprosad Mookerjee with his antecedents, with the long, hereditary antecedents of his family, for him to speak of Sir Surendranath Banerjea required a certain measure of audacity. The name of Sir Surendranath Banerjea stirs some of our deepest memories. I remember him in his days of glory. I remember him also in his lonely old age when he was politically hounded out of life by those very people on whose behalf Mr. Mookerjee claims to be speaking. I remember how he was pursued, with what nameless obliquy, with what abuse, with what vindictive malice: how persistent was the attack against him in those very quarters which now pay lip-tribute to the memory of Sir Surendranath Banerjea. Hypocrisy like this would be enough to make Surendranath Banerjea turn in his very grave.

Mr. Syamaprosad Mookerjee paid a great compliment to the Corporation and enumerated some of their many achievements. That also was not necessary. Nobody is concerned in denying any good work that the Corporation may have done. But, Sir, Mr. Syamaprosad Mookerjee forgets that, if the Corporation to-day spends three times what it used to spend on primary education before, if it now spends twice what it used to spend formerly on medical relief, the income of the Corporation is more than three times of what it formerly was. They have more to spend, and they are spending more—and that is all that can be said. Sir, it is all very well to talk about primary education. But after all the primary concern of municipalities and other local bodies is something other than primary education. There are such things as roads, conservancy, the provision of pure food and the prevalence of diseases. And how stands the record of the Corporation with regard to these matters? For the Corporation of a city where the death rate is 30 per thousand where the infantile mortality is 350 per thousand for such a Corporation to take credit for their doings requires a certain amount of cheek and audacity. What about the streets of Calcutta, what about drainage, what about adulterated food, what about the milk-kitchens, what about the thousand other promises to the people which are trotted out just before an election and afterwards conveniently forgotten? These things Mr. Syamaprosad Mookerjee conveniently slurred over: and he trotted out the old worn-out cry—a bogey which has often been laid but which refuses to be slain—the cry that the autonomy of the Corporation is going to be curtailed by the introduction of this Bill. Sir, no more blatant and unfounded charge could

have been brought against the Minister. Sir, this Bill does not touch the fringe of autonomy so far as the Corporation is concerned. The powers of the ratepayers are left intact: the constitution of the Corporation is left intact, exactly as it had been left by Sir Surendranath Baherjea, their powers also are left as they were. The present Bill introduces only two changes; both of them small, and one certainly of the utmost need and urgency—I mean as regards audit. Formerly it was ineffective, the Bill makes it effective: there was a great gap in the Act which the amending Bill seeks to remedy and that is the real gravamen of the charge against the Government. The second is the question of political sufferers. Now, Sir, so far as this question is concerned, I cannot help thinking that the sentimental pity which has been wasted upon these sufferers—the copious tears that have been shed by the professed advocates of the Corporation—I cannot help thinking that this is in the nature of a political camouflage. In fact, both sides of this House could think that the Corporation are eager to appoint political sufferers. Sir, there are ten thousands political sufferers in Bengal; how many of them have they provided for? Only 50. Have the worst sufferers been provided? No; only those who could ingratiate themselves with the bosses of the Corporation. If the Corporation had said, "we are proud of political sufferers, we shall appoint them in defiance of Government, and if Government say that we cannot employ them, we shall resign"—if they had taken up this attitude I would have admired them. They have not dared to do so: their attitude is one of whining supplication and humble apology. "We employ so *many* people, and only so *few* of them are political offenders"—that is the attitude which is taken up. But when it comes to deluding the public and gathering their sympathy, the woes of political sufferers are exploited to the utmost extent. And I protest against this shameful exploitation of political sufferers by people whose own sufferings have been the minimum.

One word I must say about the Minister for Local Self-Government. During the last two months and more, he has been the target of unmeasured abuse by a section of the Press. He has been pursued with an unscrupulous, vindictive vendetta for having dared to bring forward the present measure. Sir, I have not always seen eye to eye with the Hon'ble Minister. I have differed from him on many occasions and have animadverted with much severity on many of his actions. But I must say that he has displayed one quality of character which has ever been the first principle of my own political life. I admire courage wherever I find it: and so far as the Minister is concerned, he has displayed that rare and precious quality—a quality so rare among our public men and therefore doubly precious—the quality of acting according to one's own convictions. The Bill may be fruitful or infructuous I do not know—the future is on the knees of the Gods. But

the Minister has no wish, no desire to interfere or tamper with the autonomy of the Calcutta Corporation. He wants to preserve it: he wants to preserve also the interest of the ratepayers—those ratepayers, who are flattered on the eve of an election and forgotten the day after. He has sought to protect these interests to the best of his ability and for this act of courage he deserves and will get the sincerest thanks of the public.

Mr. P. BANERJI: Sir, in the beginning when Mr. J. L. Bannerjee, the orator, spoke on the motion for taking this Bill into consideration, we found that Mr. Bannerjee was certainly not talking with that amount of sense which we used to associate with his speeches, and that excepting fluency there was no substance in his speech; but to-day we missed even his usual eloquence when he was supporting a bad cause. When he was speaking I was thinking that it was not Mr. J. L. Bannerjee, the orator who was speaking, but the ghost of Mr. Bannerjee. It is no wonder that Mr. Bannerjee has spoken in this way. He attacked Mr. Syamaprosad Mookerjee for taking the name of Surendranath Banerjea. Mr. Mookerjee was not here when he was speaking. I say that Mr. Jitendralal Bannerjee was one of those who hounded Surendranath Banerjea out of politics. (BABU JITENDRALAL BANNERJEE: "That is absolutely false".) He said that the Congress hounded Surendranath Banerjea to death. I do not for a moment admit that the Congress hounded Sir Surendranath Banerjea to death. But, admitting for argument's sake that somebody was responsible for his death, Sir, I must say that no other man was more responsible than Mr. J. L. Bannerjee for hounding Surendranath Banerjea out of politics. In the heyday of the agitation what happened? Even when the late Deshabandhu C. R. Das was asking the people of Bengal to enter the Council, he vehemently opposed him. He said he was a no-changer and he went to Benares, Delhi and other places and spoke against the Council entry proposal. What happened afterwards?

Maulvi ABUL KASEM: Are all these relevant?

Mr. P. BANERJI: In this House this measure has been supported by Mr. J. L. Bannerjee and Maulvi Abul Kasem by indulging in lot of irrelevancies that have nothing to do with this Bill. But that is not the point. The point is that various attempts have been made in this House to support the poor Minister. And why? Because he has done a tremendous thing by bringing forward this Bill. I must say that the name of Sir Surendranath Banerjea has been rather taken in vain by the Minister and his supporters. The charges that have been levelled against the Corporation have not been proved by anybody: nothing has been proved at all. Mr. Syamaprosad Mookerjee has proved beyond doubt that the charges levelled against the Corporation are baseless, and even those who have opposed us and supported the Minister

have admitted that he has made a wonderful speech. So it does not lie in the mouth of Mr. J. L. Bannerjee to say that the name of Surendranath Banerjea was taken in vain by Mr. Mookerjee.

I must now say a few words about the congratulation offered by Mr. Thompson to the Minister. We on this side of the House think that we have nothing upon which to congratulate the Hon'ble Minister on this account. We consider that one of the blackest Bills that we have known will in a few minutes' time be placed on the statute book, not through Sir William Prentice, but through a supposed popular Minister. It may not blacken the face of the Minister, sitting comfortably in a good company, but I say it will blacken the face of every honest Bengali, because the greatest self-governing institution has been deprived of its freedom by this Bill. I, therefore, feel instead of congratulation there should be condemnation for the Minister for passing this Bill. In the course of discussion in this House as well as outside it, it has been proved beyond doubt that this is a measure which has taken away the freedom of the Corporation, and all attempts of the Minister and his supporters to prove to the contrary have been fruitless. I, therefore, oppose the Bill.

Babu AMULYADHAN RAY: Sir, I had no mind to take part in the debate. It is not Mr. P. Banerji but Mr. Syamaprosad Mookerjee who is solely responsible for my taking part in the debate. Mr. Mookerjee has said that the Minister will be remembered, but remembered not like the great Minister Surendranath Banerjea, but with shame. That may be the mentality of those who have brought shame and disgrace to the country. I do not say that Mr. Mookerjee is one of them, but can assure him that 80 *per cent.* of the people of Bengal will remember the Minister with gratitude. Eighty *per cent.* of the people will thank the Minister for an enactment which will purge the Corporation of the abuses that have crept into its administration. Mr. P. Banerji has said that this Bill will blacken the face of the Minister. I say it will not blacken the Minister's face, but it will wash away the darkest spots in the administration of the Corporation.

Mr. NARENDRA KUMAR BASU: Sir, now that the last stage of the discussion on this Bill has been reached, I have only this to say that in my considered opinion, after having heard all that had to be urged on behalf of the Government with regard to the genesis of the Bill and to the circumstances which compelled the Local Self-Government Department including the Minister by an overwhelming sense of duty to bring forward this measure before this Council, that this is a mischievous and a misbegotten Bill. I am deliberately of opinion that this legislation which has been passed is based on misinformation, misrepresentation and mistakes. Well, so far as the second part of

the Bill is concerned, I had occasion to say the other day and it is openly admitted that it is based on Dr. Dey's electric scheme. Sir, I had given to the House the other day some account of that scheme and some of the misrepresentations placed before us by Mr. Townend. I am sorry that Mr. Townend has so little regard for the intellect of his opponents that in reply to my submission before the House, he trotted out the old bogey about 15 lakhs having been kept out of the estimates; the 15 lakhs required for changing the gas posts to electric posts. I had some occasion to look into the figures and found from the Year Book of the Corporation, and I take it that the figures there are correct, that there are over 18,000 gas lamps in Calcutta and the cost to the Corporation is about Rs. 6,00,000 and there are about 3,000 electric lamps the cost of which is about Rs. 1,30,000 and I find from the scheme as set out in these papers that the existing street lighting comes to 1,397,000 units and the projected street lighting to about 9,79,000. I may remind the House that some have already been provided and there are also the Calcutta Improvement Trust areas to be completed. A part of this has come into existence since 1930. My submission is that for the purpose of replacing 18,000 gas lamps you will not require 18,000 electric lamps nor does the scheme say that 18,000 gas lamps will be replaced. The scheme says that only 2,200 electric stands are to be set up and Mr. Townend wants this House to believe that the cost of setting up 2,200 electric stands would come up to Rs. 15 lakhs. That is an example of the colossal mistakes on which this Bill is based. Therefore, I say that the Bill is based absolutely on mirepresentations and mistakes. However that may be, the House has in its wisdom accepted the Bill and passed the various clauses. I shall only say that I shall wait and see how far this Bill works for the good of the people of Calcutta. I do not hold any brief for the Corporation of Calcutta, and I am not familiar with the inner working of the Corporation; in fact, I have never been to the Corporation offices except once or twice, but I can say this that the statement of Mr. Jitendralal Bannerjee took away my breath simply when he said that the autonomy of the Corporation has not been interfered with. It reminded me of the Bengali saying "সর্ব্বস্ব তোমার, চাবি কাটিটা আমার." It means that Government have kept the key of the treasury and have left the rest with the Corporation. Mr. J. L. Bannerjee is very proud of the achievement of the Hon'ble Minister, and not only Mr. J. L. Bannerjee but the Minister himself as he said in one of his speeches that the affairs of the Corporation are carried on on the principle of self-interest. In his speech in asking the House to pass the Bill, he almost compared himself with Sir Surendranath Banerjea. I am not talking of self-interest but of self-sufficiency. For a man of his achievement and of his age to compare himself with Sir Surendranath Banerjea is simply stupendous.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I never said so. If I have given that impression, I apologise to the House.

Mr. NARENDRA KUMAR BASU: I am afraid, Sir, when posterity comes to deal with these two Ministers with regard to their activities in connection with the Calcutta Corporation, it will say that while one popular Minister tried to clothe the dry bones of the Calcutta Corporation with flesh and blood, the other popular Minister tried to steal away those clothes when nobody was looking.

Maulvi ABUL KASEM: Sir, I offer my congratulations to the Hon'ble Minister for the admirable way in which he has carried out his duties under very trying circumstances. It was not necessary for me to do so, because the whole House and people outside not within the range of my voice will appreciate his work, but I have got one thing to say in reply to Mr. P. Banerji. He said that the Hon'ble Minister has crippled autonomy in the biggest, the most prosperous and the most important self-governing body in the country. I say that in my opinion the Hon'ble Minister has done the greatest possible service to Local Self-Government by getting this Bill through. As has been pointed out by my friend on my right, it does not interfere with the autonomy of the Corporation. He has eloquently said that it was a warning given by the Hon'ble Minister to the Corporation to mend themselves. The Hon'ble Minister in this respect has followed the principle of criminal law in this country where they deal with the first offender without any punishment. So this is only a warning, and I hope the Corporation will benefit by it. Otherwise I am sure if the Hon'ble Minister had taken the trouble and wanted to hinder the Corporation, whether any section of the Corporation or the Corporation as a whole, he could have taken other measures. If a commission of inquiry were set up to examine, the Corporation would have been found in its present administration to be defective in many matters. But the Hon'ble Minister instead of taking that step has only given them a warning and nothing more. He has been abused in this House as well as outside and in the public press, both vernacular and English, for having done a grave wrong. I am sure that those people who abused him and spoke of the great wrong that was being done to the Corporation knew perfectly well that nothing of that kind was being done. They criticised the Hon'ble Minister simply for the purpose of raising an agitation against him. My friend who said that he had never been inside the Corporation except once or twice and did not hold any brief for them was confident that the Corporation had never been guilty of anything for which a warning was necessary. But there are people outside this House who after reading the articles in the press and the speeches delivered here as well as in the Corporation are of opinion that

the Hon'ble Minister has made a mistake in bringing forward this small measure. There is an old English adage "if one is to be hanged for a sheep, why not for a cow," but in this case it is not a sheep but a fly. I have only to add that in vain and for no earthly purpose the name of Sir Surendranath Banerjea has been dragged into the debate. It reminds me of a Bengali saying "ভূতের মুখে রাম নাম"।

Dr. NARESH CHANDRA SEN GUPTA: No one would have been prouder of the Minister than myself if I could have thought that he has acquitted himself in the passage of this Bill with credit, for I have had the honour of giving him the first lessons in Law. But the way in which he has slaughtered the legal principles and the elements of justice in the course of this debate has filled me with just the reverse of pride. It will serve no useful purpose whatsoever at this hour of the day to go over the discussions once again, but I must say this that those of us who have not left their legal training behind when entering this House must leave this House with a feeling of having assisted in the promulgation of a piece of law which is not only against all principles of justice but many of whose clauses are so badly drafted and so inelegant and so impossible of execution that one does not know what will happen unless this legislation is allowed coolly to lie in the archives of the Government. I only express the hope that after the heat and turmoil of the debate is over and after the Hon'ble Minister has time to cool his head in the atmosphere of Darjeeling, he will go over the provisions of the Bill once again, and look up the debates in this Council and the reasons put forward against it and consider whether after all there were not a great deal of reason and justice, and if he finds so, and if he really has the courage for which Mr. Jitendralal Bannerjee gives him credit, I hope he will not hesitate to take courage in both hands and come before this Council with a proposal to amend the Bill on the lines of some of the suggestions which have been made. With these words I oppose the motion.

Maulvi SYED MAJID BAKSH: I had nothing to do with this Bill except on one or two occasions in connection with certain amendments. I thought I would not disturb the House but for a remark from a speaker which I think is not justified. I listened to the speech of Mr. Jitendralal Bannerjee. Mr. Bannerjee on his coming with ambrosial weeds fresh from the chalk cliffs of Dover has regaled the House with his torrential eloquence. He is to me at least an enigma because a protean and chameloen-like he changes colour. His support of the Bill leads us back to the provisions of the Bill. I have got nothing to do with the Calcutta Corporation. In fact, there is not much love lost between the Corporation and myself. But I look at it from the point of view more of law than as anything else. When I

look at the sections (Inaudible interruption from Mr. P. N. Guha)—— Of course, I would not persuade myself to convince Mr. P. N. Guha who is hissing out like anything. Well, Sir, hissing is done by animals, which is well known. Of course, I do not know whether he is pleased to be considered in that category——

Mr. P. N. GUHA: Put him in a cage.

Maulvi SYED MAJID BAKSH: Yes, I am prepared to cage him. As I was saying, Sir, when I look at the clauses of the Bill, my attention is directed first of all to clause 4, to which I have already recorded my opposition by supporting one of the amendments. It is such a long section that one's interest is lost as soon as one gets to the end of it. Sir, it is not a section of law. It is rather an essay: I say, Sir, it is a longwinded rigmarole and mischievous imitation of the English statutes, and represents a mass of undigested legal learning.

The principle that underlies the Bill is astounding: Sir, legal discrimination is something which ought not to be attempted in framing any section of law. (Interruptions from Mr. K. C. Ray Chowdhury.) With all apologies to Mr. K. C. Ray Chowdhury, who is also from the white chalk cliffs of Dover, I may say that this imitation of the English statutes might as well be divided into more portions than one. Here a most pernicious principle is adopted, *viz.*, that of discrimination—discrimination between persons who seek employment irrespective of their capacity to serve or to give satisfaction to their employer. As I have already submitted, in this country, which is long suffering from subjugation, the capacity to suffer might be one of the tests of integrity. I should refer to the people who have almost reached the acme of perfection in administration—I mean the English people. If you go into their history you will find to what length of suffering this nation has gone to fit itself to rule almost a world-empire. You will find that during the Stuart period these people underwent a lot of suffering for their country's cause. You will find that Algernon Sidney who when mounting the scaffold——(A VOICE "Who was he?") Read English history and you will learn who he was. Who, when he was mounting the scaffold said that he was fighting for the old cause for which his predecessors had fought.

Mr. K. C. RAY CHOWDHURY: Cromwell!

Maulvi SYED MAJID BAKSH: Well, do not give vent to your knowledge of English history. You will find that this principle of suffering is one which animated even the earliest of kings. Even so pious a monarch Marcus Aurelius threw a saint before a hungry lion

and this persecution went on till at last one of the Roman emperors himself became a Christian. Therefore this spirit of persecution is bad in a piece of legislation. If by their despotic powers, powers of persecution, they failed, that is enough reason for the Legislature not to embody in legislation the spirit of persecution. The sufferings which these people have undergone have earned for them a reputation for integrity, and I challenge Government and others to find out a single instance in which these persons have proved dishonest or in which they have been shown up as being unworthy of trust.

As to the other sections of the Bill I will not refer to them, because they are audit sections and being an ordinary man, I am not much in the know of the Corporation and do not know what are their difficulties. But this Bill has made legislative changes which give large powers to the Executive. I object to them because, as I have already told the House, they instil into the section a spirit of distrust and hatred for a section of the people but which by reaction may in its turn give rise to feelings of hatred against the persons who have passed such legislation. Sir, I hope those persons who are behaving as if they are in theatre will cease their mutterings now that I resume my seat.

Mr. S. M. BOSE: Sir, now that the dust and din of fight is over, I think I may say that both parties have done the best that could possibly be done. Nothing that could possibly have been urged by any stretch of reason has been left unsaid. Sir, I do not desire to speak in detail about the Bill, but I may say this that I do believe in my heart of hearts that the Bill will be a useful one, and further that, it will be found to be so not only by the rate-payers but by the parties immediately affected, the Calcutta Corporation. Sir, the Calcutta Municipal Act of 1923 was silent on two points and perhaps there was some excuse for the mistakes committed by the Corporation. Now that these difficulties have been remedied, I have not the slightest doubt that everything will be all right. I hope that the Bill will be so effective that there will be no occasion whatever to enforce it and that it will be a dead letter in that sense. Sir, I do not agree at all that this Bill has been a drastic one or that it will in any substantial way curb the rights of the Corporation. I deny that it will stop any healthy beneficent activities, and I say that there is nothing in it which may frighten an honest man.

Before I sit down, may I congratulate the Hon'ble Minister in charge of the Bill for the skill and courage he has shown in getting the Bill passed? We all know the hard language that has been hurled against him, the abuse and misrepresentations that he has suffered. But now that it is all over, I have no desire to rake up the past, but I may be permitted to express the sense of the whole House in conveying our sense of admiration of his devotion to duty in the midst of

such unfavourable circumstances. We all know, Sir, that it is very hard to court unpopularity, but he has not shrunk from doing what he thought to be his duty. During the whole course of this affair there were appeals to him from some people in this city to drop the Bill, but he deliberately courted unpopularity with them in not listening to them; in spite of the full knowledge that he would be coming in for abuse and strong language both outside and inside the House, he has done what he thought to be his duty.

Sir, before I conclude may I be permitted on behalf of the House to express our sense of obligation to you? You, Sir, have had the hardest task of us all. When we were tired with the endless talk and talk, we could walk out but you could not. You had to sit tight and, Sir, we were amazed at your calmness. At times, Sir, I must frankly confess that we felt that you were too lenient, but now we find that you were right. You allowed every person to have his say, and although we did not quite appreciate it at times, I now on behalf of the House convey our thinks to you.

Mr. PRESIDENT: There is no doubt that I was lenient when I allowed you to speak.

The question that the Calcutta Municipal (Amendment) Bill, 1933, as settled in Council be passed, being put, a division was taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Ashworth, Mr. C. C.
Bagerji, Rai Bahadur Keshab Chandra.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Bara, Mr. N. N.
Cohen, Mr. D. J.
Dain, Mr. B. R.
Das, Rai Bahadur Kamini Kumar.
Edgley, Mr. N. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Goenka, Rai Bahadur Badridas.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. C. S.
Hossain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Maguire, Mr. L. T.
Miller, Mr. G. C.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amalyadhan.
Ray, Babu Khetter Mohan.
Ray, Baba Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Sailesswar Singh.
Roy, Mr. S. N.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Mr. S. R.

Sen, Rai Bahadur Girin Chandra.
Solaiman, Maulvi Muhammad.
Steven, Mr. J. W. R.
Sumner, Mr. C. H.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walther, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ali, Maulvi Hassan.
Bahsh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Maiti, Mr. R.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Roy, Babu Jitendra Nath.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

The Ayes being 65 and the Noes 16, the motion was carried.

Mr. PRESIDENT: The time has come when we must bid good-bye. I hope that we shall all drive out from our minds all bitter memories. I can assure Mr. S. M. Bose that I am going to drive out from my mind his empty words of praise. We are more accustomed to abuse, direct or implied.

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor to declare that the Bengal Legislative Council stands prorogued.

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(Official Report.)

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That in clause 4, in proposed section 54A (*1*), in line 4, for the words "State or", the words "State involving violence and" be substituted ; lost 14 to 59 : 284-285.

That in clause 4, in proposed section 54A(*1*), in lines 4 to 6, the words "or has been sentenced to imprisonment for a term of three months or more" be omitted : lost, 21 to 67 : 304-305.

That in clause 4, in proposed section 54B(5), in line 4, for the word "two" the word "six" be substituted : lost, 16 to 67 : 328.

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That in clause 11, in proposed section 123(*1*), in line 1, for the word "forthwith", the words "with due diligence" be substituted : lost, 16 to 58 : 393-394.

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That in clause 11, in proposed section 123B(*2*), in line 9, after the word "deemed" the words "unless he can show that he acted with due care and attention" be inserted : lost, 10 to 52 : 471.

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That in clause 11, in proposed section 123D(*1*), in lines 1 and 2, the words "not withstanding any application or appeal that may be made under section 123C" be omitted and in line 12, after the word "auditors", the words "or after disposal of the application or appeal referred to in section 123C" be inserted : lost, 22 to 64 : 442-443.

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Bengal Places of Public Amusement Bill, 1933 : 75.

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Hakim, Maulvi Abdul

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Kasem, Maulvi Abul

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Swami Jnanananda restrained from addressing public meetings: (Q.) 411-412.

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President, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chowdhury, Kt., of Santosh)

Observations and rulings by

Adjournment of the House is entirely in the hands of the Hon'ble the President: 394-395.

A member must have his own way of developing his agreements: 195

A member must realise his responsibility and make fresh and substantial contribution to the debate: 231.

A member who is in possession of the House cannot be stopped: 485.

Anything construed as a reflection on the House cannot be allowed: 192.

Difficulties are imaginary when the substance of two different clauses are the same: 413.

Expressions which do not add weight to a member's argument may be withdrawn: 256.

Flinging remarks is no business of a member: 451.

For the sake of correct procedure it is necessary to bring up the original clause as it was when it was referred to the Select Committee and the new details in the shape of a new clause: 368.

President, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chowdhury, Kt., of Santosh)

In the event of an amendment being accepted, the House may not think of omitting a clause altogether: 488.

It is not fair to make the Hon'ble Minister responsible for any pamphlet issued by the Publicity Department: 210.

It is not open to a member to re-open a debate that has already been closed: 228.

Members may be stopped to put an end to future wordy duels from a retaliating member: 219.

Members must take their seats when the Hon'ble the President rises to address the House: 446.

Members should confine their remarks to that particular clause that is before the House: 227

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One cannot accuse any one of making false statements. They may, at least, be incorrect: 191.

President may or may not accept a short notice amendment. There is no question of right: 471

Redraft of amendment need not be moved, when it has been well placed in the Bill and circulated under Hon'ble the President's ruling:

Repetition is no crime provided the same arguments are put in different impressive ways, differently clothed: 230.

Reply to a previous debate cannot be allowed. 222.

Slandering Select Committee members is a slander on the House itself: 193.

The Chair cannot be expected to pronounce an opinion whether suggestions of two members are identical or not: 434.

The Chair gives ample scope to members to put forward their view points: 330.

President, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chowdhury, Kt., of Santosh)

The Chair is prepared to weigh in the balance any advice given openly or privately if it is given in the right spirit and with becoming manners: 231.

The Chair may object to the introduction of new matters into a clause by means of an amendment which is beyond the scope of the clause itself: 413.

The Chair may revise its decision if there is any substance in the full statement of the leader of a particular group: 271.

The Chair should not prevent a party leader from making introductory remarks: 251.

The Chair will prevent the majority from tyrannising over the minority as much as it will prevent the minority from obstructing the majority in the pursuit of their work: 271-272.

The House may accept or reject a short-notice amendment which has been permitted by the Hon'ble the President: 469.

The practice of speaking before Government spokesman should be followed under normal conditions as they have got to meet so many points raised by different sections in the House; but one may have to speak after him when a minister makes out an altogether new point which requires a reply: 419.

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We are more accustomed to abuse, direct or implied: 518.

When a member denied having made a statement, it is wise not to dilate on it. It is a parliamentary practice to accept a member's statement: 267-268.

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President, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chowdhury, Kt., of Santosh)

When a party leader has made a statement, it is not necessary for other members of that group to make another statement: 272.

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